

Exhibit 3

Summary of Comments Received on the Final Environmental Impact Statement

MEMORANDUM

Responses to Public Comments on the FEIS received between June 28, 2022 and July 11, 2022

For the ESD Directors' Meeting July 21, 2022

A. INTRODUCTION

This memorandum summarizes and responds to public comments received by Empire State Development (ESD) on the Final Environmental Impact Statement (FEIS) for the Pennsylvania Station Area Civic and Land Use Improvement Project (the Project), which ESD issued on June 30, 2022. This memorandum addresses comments submitted on the FEIS and does not address other comments received on the Project. Section B contains a summary of relevant comments on the FEIS that were received from June 28, 2022 until 12:00 PM EDT on July 11, 2022. Responses to prior comments received during the public comment period for the Project's Draft Environmental Impact Statement (DEIS) and ESD's initially adopted General Project Plan (GPP) are provided in FEIS Chapter 26, "Response to Public Comments." Section C contains comments that repeat what was already received on the DEIS, with references to responses found in FEIS Chapter 26. A list of elected officials, organizations, and individuals that provided comments on the FEIS can be found in Section D.

Attachment A to this memorandum, "Public Comments Received on the FEIS," includes all written comments in digital format.

B. RESPONSES TO COMMENTS NOT PREVIOUSLY RECEIVED

COMMUNITY ENGAGEMENT AND PUBLIC PARTICIPATION

Comment B-1: The Project Description, as well as Appendix A, refer to the CACWG, the Community Advisory Committee Working Group. For historical context, when the GPP was announced, and even before the draft scope of work was issued, ESD convened a Community Advisory Committee. ESD designated a retired district manager as Community Board Five representative, over CB5 chair and CB5 land use chair's objections. In the initial meetings, CB5 leaders were denied the right to attend these meetings. It required strong advocacy for relevant CB5 leaders to be admitted to participate in ESD's community engagement. (Law-Gisiko_048)

Response B-1: Comment noted. The Community Advisory Committee (CAC) and its larger working group (CACWG) have properly served their function of facilitating open communication and engagement among ESD, local elected officials, and community stakeholders, and included the relevant CB5 leaders. CB5 has had consistent representation in the CAC throughout the process. When CAC members brought to ESD's attention

that there would be benefits of having a larger group, ESD created the larger working group and it included members recommended by the CAC and representatives of CB5. The CACWG was formed to include a wide array of representation, totaling 34 residents, technical experts, and elected officials. The number and type of members proposed to ESD were intended to provide a range of perspectives while keeping the group to a size where all could be heard and participate productively. Please refer to the response to Comment CT-1 in Chapter 26 of the FEIS.

PROJECT DESCRIPTION

Comment B-2: The project description introduces a new level of ambiguity and vagueness about the plan itself, as well as its purpose. We note that sites 1, 2, & 3 are referred to as potential development sites, as part of a potential Penn Station expansion. We note that the stated goals, while materially unchanged, acknowledge that for example, the GPP would only partially fulfill the stated funding goal to pay for Penn reconstruction and expansion. (Law-Gisiko_048)

Response B-2: The FEIS makes clear the contingent nature of the development on Sites 1, 2, and 3. ESD and the Metropolitan Transportation Authority (MTA) do not expect, and have never expected, that the Project's potential payment in lieu of taxes (PILOT) revenue or other revenues would be sufficient to fund the entire New York State share of the cost for either the Penn Station reconstruction or potential Penn Station expansion.

Comment B-3: We ask that the number of residential/affordable units be increased on Site 1 as follows:

- Both buildings on site 1 should be 100% residential
- As recommended in the August 31, 2021 CACWG report "Significant affordable residential development should be a part of the plan on more than one site, we are open to exploring more than 12 FAR of residential if it includes a substantial affordable housing component."
- 100 % of the units should be permanently affordable. This will begin to mitigate the losses of community resources and the lack of affordable housing in the rest of the project. Consistent with long held positions, MCB4 recommends permanent affordability for individuals and families at range of incomes between 40% and 165% of Area Median Income ("AMI"). (LeFrancois_031)

Response B-3: Following the issuance of the FEIS, the Project has been modified to include an additional 108 permanently affordable supportive housing units on Site 1A in response to requests from elected officials and the community for this use. Requiring only residential use and 100 percent

affordable housing on Sites 1A and 1B would greatly reduce the amount of PILOT revenue that could be generated by those sites because nearly all affordable housing projects receive a 100 percent real estate tax abatement on the entire residential program (including the market-rate program) under affordable housing subsidy programs. Therefore, it is anticipated that there would not be PILOT revenue generated on residential uses. Furthermore, a project involving an entirely affordable residential development on Site 1 would require substantial public subsidies and would be inconsistent with the goals and objectives of the Project. The income levels for the affordable housing have not yet been determined.

COMMUNITY FACILITIES AND SERVICES

Comment B-4: We support the creation of social services within some of the new proposed buildings, but we warn of the time gap between demolition of existing buildings and construction of new buildings that would house such services. The time gap may be as long as 20 years. This area of Manhattan cannot be left without social services for so long. (Law-Gisiko_048)

Response B-4: The State has committed to provide additional funding for social services and homeless outreach in and around the Project Area. As stated in FEIS Chapter 5, "Community Facilities and Services," in the event Sites 1, 2, and 3 are selected as the preferred alternative for a southern expansion of Penn Station in the federal review process, the Project would result in direct effects associated with displacement of four community facilities: a homeless drop-in center; a house of worship that provides a food pantry, health and wellness programs, and meeting space for substance abuse recovery programs; an English language school, and a non-profit organization for Lithuanian Americans. The detailed assessment in the FEIS concludes that while these community facilities would be directly displaced by the Project, the displacement would not result in a significant adverse impact. With respect to the homeless drop-in center, house of worship, and English language school, comparable services are provided by other organizations and institutions in the vicinity of the Project Area. ESD would also work with the operator of the drop-in center to facilitate its right to return to the Project Area in a larger space to increase the facility's capacity, if desired. With respect to the non-profit organization for Lithuanian Americans, the facility serves a regional population and does not have unique locational requirements and it is anticipated that it could relocate in Manhattan or New York City. Displacement of these community facilities would also be assessed

during the federal review under the National Environmental Policy Act (NEPA) for the potential Penn Station expansion.

URBAN DESIGN AND VISUAL RESOURCES

Comment B-5: While the FEIS includes improvements to view corridors from the original plan, we agree with the local community about the overall impact on views. ESD should work to minimize shadows and negative impacts from new development on sightlines. (Nadler et al_050)

Response B-5: Comment noted.

TRANSPORTATION

Comment B-6: While the Port Authority Bus terminal appears within a few data tables, there is no quantification or analysis related to this project. As required by the SEQR, the FEIS must study the cumulative traffic, pedestrians, transit, air quality, noise and construction impacts of those projects to the neighborhoods along and west of Eighth Avenue. Each of the projects intends to increase the volume of commuters in the same area by at least 40%. The towers proposed for the Port Authority will be net additional in locations where there are currently no buildings. The areas affected in Manhattan Community District 4 have significant long term and short term overlaps. The construction will occur at the same time. The impacts on the A, C, and E Subway Lines will be significant. As further illustration, the Port Authority intends to operate an interim bus terminal on West 30th Street between Ninth and Tenth Avenues, just one block away from the project. This will have significant negative impact on the volume of pedestrians and vehicles in the area. (LeFrancois_031)

The multiple developments in the area, including the Port Authority Bus Terminal alongside the Penn Station redevelopment project will have significant and compounded impacts on traffic volume, pedestrians, transit, air quality, and noise in the area of the project. These cumulative impacts were not fully taken into account in the FEIS. It is essential that the GPP outline mechanisms to monitor and mitigate the impact of these developments on transit, pedestrians, traffic, and residents. (Nadler et al_050)

Response B-6: The effects of the Port Authority Bus Terminal (PABT) project were accounted for, together with many other background projects, in the future No Action conditions in the FEIS (see Chapter 2, “Analytical Framework”). With respect to the transportation analyses, the projected increase in bus riders and trip generation from the PABT project and its development sites were incorporated into the future traffic, transit, and

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pedestrian peak hour baselines volumes for the Phase 1 and Phase 2 analyses in the FEIS.

With respect to construction, both projects are expected to have concentrated localized effects near the respective project sites. Because the two projects are about 10 blocks away from each other, the effects of construction activities of one project on the other would be dispersed and would amount to modest and incidental background activities. For the Project, the construction transportation analysis conservatively assumes future baseline conditions that account for background projects that are not expected to be completed by the construction analysis years. Accordingly, any modest and incidental effects associated with PABT's construction activities would have been adequately considered.

GREENHOUSE GAS EMISSIONS

Comment B-7: We are pleased to see that the design guidelines will encourage exceeding LEED Gold standards for building performance and the inclusion of all electric buildings. As the construction timeline for these projects is over the course of decades, design guidelines should seek to encompass technology that may not be readily available yet. (Nadler et al_050)

Response B-7: Comment noted. As set forth in the Design Guidelines, Project buildings would be required to use the version of Leadership in Energy and Environmental Design (LEED) in effect at the time of design, or an equivalent green certification standard, at ESD's discretion.

PUBLIC HEALTH

Comment B-8: The presence of pollutants including asbestos in the large area to be demolished is cause for concern regarding public health. (Law-Gisiko_048)

Response B-8: As discussed in Chapter 18 of the FEIS, "Public Health," with the implementation of a variety of standard precautionary measures (e.g., identification of hazardous materials as part of Phase I and Phase II investigations, development of site-specific Remedial Action Plans [RAPs] and Construction Health and Safety Plans [CHASPs] for implementation during subsurface disturbance, and handling/disposal of hazardous materials in accordance with applicable regulations, material management plans, and health and safety plans), no significant adverse impacts related to hazardous materials would be expected to occur as a result of construction of the Project. Although some hazardous materials would likely still remain in the subsurface following construction of the Project, with the groundwater, vapor control, and other remedial

measures described in Chapter 10 of the FEIS, “Hazardous Materials,” there would be no exposure pathways and operation of the Project would not result in significant adverse public health impacts due to hazardous materials.

ALTERNATIVES

Comment B-9: The alternative admits that the No Unmitigated impact alternative is not desirable simply because it offers less financial incentive to the developer to build the towers. (Law-Gisiko_048)

Response B-9: As discussed in Chapter 21 of the FEIS, “Alternatives,” there is no practicable alternative that could be developed to avoid the unmitigated significant adverse impacts of the Project while meeting some or all of the goals and objectives of the action. In order to eliminate the Project’s unmitigated significant adverse impacts, the Project would have to be reduced in size or modified to a point where it would not realize the goals and objectives of the Project, which include revitalizing the area surrounding Penn Station and eliminating substandard and insanitary conditions in the Project Area; fostering and supporting economic growth and tax revenue through the creation of jobs and economic activity; improving passenger rail and transit facilities; creating new open space; supporting improvements to address substandard conditions in Penn Station; and supporting and accommodating future capacity increases at Penn Station.

Comment B-10: We remind ESD that a no-action alternative would allow New York City to enact its own upzoning, and capture the full benefit of a real estate tax increase, contradicting the notion that the area would have to remain untouched in perpetuity. (Law-Gisiko_048)

Response B-10: New York City has had many years to propose a districtwide upzoning of the Project Area and has not done so. Rather, as noted in the Neighborhood Conditions Study, the Project Area is subject to patchwork zoning regulations that do not articulate a comprehensive vision for the area’s future growth and impede the growth and development of the area.

Consideration of the No Action Alternative under SEQRA is intended to provide the lead and involved agencies with an assessment of the expected environmental impacts of no action on their part (i.e., no discretionary approvals). An EIS identifies the potential environmental impacts of a proposed “With Action” scenario by comparing those environmental impacts to the “No Action” scenario. See New York State Department of Environmental Conservation (NYSDEC), The SEQRA Handbook at 126 (describing the “no action” as the “baseline for

evaluation of impacts”). Established New York State Environmental Quality Review Act (SEQRA) methodology allows reasonably anticipated “as-of-right” development on the project site to be assumed in the “No Action” scenario because such “as-of-right” development is not subject to review under SEQRA. But established SEQRA methodology does not allow discretionary municipal actions which have not yet undergone SEQRA review and which would induce development on the project site to be assumed in the “No Action” scenario. This is so because including development allowed by such discretionary actions on the project site in the “No Action” scenario would reduce the impacts of the “With Action” scenario by reducing the development increment between the “With Action” and “No Action” scenarios and avoid disclosure of the full impacts of the “With Action” scenario. Therefore, it would not be appropriate for ESD to assume a No Action Alternative that includes an upzoning of the Project Area by the New York City Planning Commission.

MITIGATION

Comment B-11: We note that raising revenue is a stated goal of the GPP while funding and revenue is deemed out-of-scope. If out-of-scope, it should not be a criterion to decline mitigation. Yet, in many instances, negative environmental impacts are left unmitigated because mitigation would allegedly reduce revenue. (Law-Gisiko_048)

The shadow impact caused by proposed buildings will be very significant, both in summer and winter months, and will impact open space as well as light sensitive resources. The shadow impact is unmitigated. A full financial analysis of the plan must be presented so as to understand why shadow impact and other negative impacts cannot be mitigated. (Law-Gisiko_048)

Response B-11: Under SEQRA, it is appropriate to evaluate whether mitigation is practicable in light of the goals and objectives of the Project. As noted in Chapter 1 of the FEIS, “Project Description,” maximizing revenue generated by the new development to fund, in part, the Penn Station reconstruction and the potential expansion of Penn Station is among the objectives of the Project. As discussed in Chapter 22 of the FEIS, “Mitigation,” certain potential mitigation measures have been determined to be impracticable because they would substantially compromise the goals and objectives of the project. For example, fully mitigating the significant adverse shadow impacts of the Project would require substantial reductions in the bulk and/or heights of the Project buildings. This mitigation option would be impracticable because such reductions would hinder achievement of the Project’s important public objectives of

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revitalizing the area surrounding Penn Station with new, sustainable, high-density mixed-use development, fostering and supporting economic growth and tax revenue through the creation of jobs and economic activity, accommodating New York City's long-term growth targeting the modern needs of commercial tenants at a transit-accessible location, and generating significant revenues to support the work needed to improve and expand Penn Station.

Comment B-12: Construction until at least year 2044 suggests that noise will be an issue in the area for at least the next 22 years, and probably more. This community has endured already many years of construction related noise with the refurbishment of 2 Penn, the construction of Plaza 33 and the demolition of Hotel Pennsylvania, to name a few. This community gravely objects to being subjected to further noise for such a long period. (Law-Gisiko_048)

Response B-12: Comment noted.

Comment B-13: Too many negative impacts are left unmitigated for the proposal to be considered acceptable. (Law-Gisiko_048)

Response B-13: Comment noted.

UNAVOIDABLE ADVERSE IMPACTS

Comment B-14: We request that ESD refine the building envelopes to fully mitigate the visual corridor impact on the Empire State Building. (Law-Gisiko_048)

Response B-14: Chapter 23 of the FEIS, "Unavoidable Adverse Impacts," discloses that potential mitigation measures considered with respect to the obstruction of views to the Empire State Building from certain vantage points within the western portion of the study area would not be practicable; therefore, the significant adverse impacts constitute an unavoidable significant adverse impact of the Project.

Comment B-15: We strongly disagree with the assertion that the plan will cause unavoidable adverse impacts in the following areas: community facilities, open space shadows, historic and cultural resources, visual resources, transportation, noise, construction, transportation, neighborhood character. We believe these adverse impacts to be avoidable. (Law-Gisiko_048)

Response B-15: Comment noted. As discussed in Chapter 23 of the FEIS, "Unavoidable Adverse Impacts," certain of these significant adverse impacts would be unavoidable because no practicable mitigation has been identified to fully

mitigate the significant adverse impacts, and there are no reasonable alternatives to the Project that would meet the purpose and need, eliminate potential impacts, and not cause other or similar significant adverse impacts. In other cases, mitigation has been proposed, but absent a commitment to implement the mitigation, or if the mitigation is determined to be impracticable upon further review, the impacts may not be eliminated.

Comment B-16: We are pleased to see a residential alternative being introduced, but are very displeased that the early childhood center impact will not be mitigated. If a residential alternative is the preferred alternative, it is imperative that early-childcare needs be fully met. (Law-Gisiko_048)

Response B-16: As discussed in FEIS Chapter 23, “Unavoidable Adverse Impacts,” at such time as ESD enters into a development agreement for a building that would include affordable housing, it would consult with the New York City Department of Education’s (DOE) Division of Early Childhood Education (or other appropriate agency at the time of mitigation consultation) to determine whether such building would trigger the need for additional early childhood program space. In the event such mitigation is determined to be necessary, ESD would include in such development agreement (or other binding agreement) provisions requiring the developer to arrange for such early childhood program space.

C. COMMENTS ALREADY RECEIVED ON THE DEIS, GPP, AND PROPOSED REVISIONS

SEQRA/CEQR/ULURP PROCESS

Comment C-1: It is very dangerous that ESD strips any direct control of the project from NYC government, their agencies, their far more transparent ULURP process which is more fair, far more transparent, more inclusive, and has badly needed checks and balances. (Sinigalliano_046)

Response C-1: Please refer to the response to Comment CT-2 in Chapter 26 of the FEIS.

PURPOSE AND NEED

Comment C-2: The two linked but segmented proposals not included in the GPP – MTA’s Penn Reconstruction and any Penn Expansion Alternative must both be fully planned, submitted and a decision made by NEPA before any land use project makes sense, can contain realistic planning or should even be considered. (Sinigalliano_046)

Response C-2: Please refer to the response to Comment CT-3 in Chapter 26 of the FEIS.

PROJECT DESCRIPTION

Comment C-3: Is the construction of new affordable housing dependent on the approval of a southern expansion of Penn Station onto Sites 1 through 3? According to ESD's CT-8 Response, only Site 1A would be "required" to include residential uses. Residential uses are "permitted" on Sites 1B, 4, and 8. The response goes on to state that "up to 1,798 residential units could be built, of which 540 would be permanently affordable." I am worried about the uncertainty of the word "could." The least we can do for our neighbors who are relocated from homes they've had for decades is to ensure that housing for them is prioritized. Residential buildings should be the first ones built, and if Site 1A is not built, housing must be guaranteed on other sites. (Krueger_010)

The current plan only requires housing at site 1A, leaving sites 1B, 4 and 8 as only having the option of residential development. This leaves a plan where the final amount of housing may turn out to be minimal, and potentially non-existent, as the only required housing location, site 1A, would not be developed if an alternative other than the southern expansion is selected. A guarantee for new affordable housing must be included in this plan by requiring residential development on sites outside the southern expansion area. (Simone_047)

It remains that many of the recommendations relating to direct community benefits are not guaranteed and are reliant on the separate approval of the southern expansion alternative for Penn Station. If the southern expansion does not occur, there would be no requirement for a community facility on any of the remaining sites as currently proposed. Additionally, if development on sites 1-3 does not occur, requirements for housing, notably affordable housing, would also disappear. We hope to see an alternative site proposal for these benefits if the southern expansion does not occur. (Nadler et al_050)

The only site currently required to be residential is site 1A, with sites 1B, 4 and 8 allowing the option for residential development. As stated earlier, if an alternative Penn Station capacity project is selected that is not the southern expansion, Site 1A may not see development at all, negating any potential affordable housing gains from this project. A project this large must confront New York's housing crisis head-on, with 1,000 affordable units, including at least 200 supportive units. The remainder of these units, not yet included in the proposal should be located on sites that are not reliant on the southern expansion currently under consideration.

These sites must be included in the “piggybank.” Affordable housing should be included in the first phase of construction. (Nadler et al_050)

There is still too much office space. With commercial vacancy rates at 16%, office occupancy only at 41%, and unused office space at World Trade and Hudson Yards, pre-pandemic, more office space is not what we need. With this level of density, there must be increased residential zoning, including mandatory affordable and supportive housing, on sites 4-8. (Nadler et al_050)

There must be affordable and supportive housing provided on Sites 4-8, and displaced residents should have the option to move into those units before their buildings are demolished. If site 1A is not built, residents should be relocated onto another site. (Nadler et al_050) CB5 notes that if the Penn expansion to the south is NOT the preferred alternative, sites 1, 2, and 3 would not be re-developed and therefore there would be no mandatory affordable housing and no mandatory community facilities as part of the GPP. This is in our opinion a major flaw of the proposal. (Law-Gisiko_048)

This dearth of affordable housing in a project of this size is unconscionable and is contrary to New York City’s stated policy of creating more affordable housing to address the city’s housing crisis. ESD has missed an opportunity to provide a significant number affordable housing units and should rectify this grievous and callous mistake. (Gonzalez_015)

Response C-3:

As presented in the FEIS, if Sites 1, 2, and 3 are selected as the preferred location for the potential Penn Station expansion, 542 units of housing would be required on Site 1A, 163 of which would be permanently affordable, and an additional 1,256 housing units are permitted across three additional sites—Sites 1B, 4, and 8—for a total of up to 1,798 (of which 540 would be permanently affordable). In addition, after publication of the FEIS, ESD staff has proposed to modify the permissible development program on Site 4 to incentivize the early construction of residential development at that site, including affordable housing, in the build-out of the Project, in response to community input stressing the need for such uses in the area. With this modification, residential use would be required on Site 4 if the available floor area is utilized.

Furthermore, following the issuance of the FEIS, the Project has been modified to include an additional 108 permanently affordable supportive housing units on Site 1A in response to requests from elected officials and the community for this use. In addition, the State has committed to provide additional funding for social services and homeless outreach in and around the Project Area.

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Please also refer to the response to Comment CT-9 regarding social services and the response to Comment CT-4 regarding the demand for Class A office space in Chapter 26 of the FEIS.

Comment C-4: The prospective demand for Class A office space is a hotly debated topic after the work- and life-style changes spurred by the Covid pandemic and enabled by technology. The GPP and DEIS must consider alternative assumptions about demand for office space and assess both the viability of the Proposed Project to generate revenue and construct public realm and transportation infrastructure improvements if trends away from Class A office utilization continue or accelerate. (Gonzalez_015)

Response C-4: Please refer to the response to Comment CT-4 in Chapter 26 of the FEIS.

Comment C-5: The DEIS should consider whether the adaptive reuse of these structures and their integration into the Proposed Project can serve to mitigate these impacts. (Gonzalez_015)

Response C-5: Please refer to the response to Comment CT-11 in Chapter 26 of the FEIS.

Comment C-6: The FEIS does not address the most significant problem — that the plan has been severed from the larger, animating project of which it is a part, namely the Master Plan for Pennsylvania Station. As our earlier comments explained, this constitutes illegal segmentation under the State Environmental Quality Review Act. The consequence of this segmentation is that the FEIS (1) never considers the environmental effects of the Master Plan as a whole (see DEIS Comments, pp. 38-54); (2) never establishes, as it must, that the reconstruction of the station requires the project's lavish gift to neighboring property owners (pp. 27-30); and (3) never provides the granular financial analysis demonstrating that the project will actually produce the money that ESD claims to need (pp. 30-38). (Weinstock_029)

Response C-6: Please refer to the responses to Comments CT-3, CT-5, CT-7, and CT-13 in Chapter 26 of the FEIS. Furthermore, the Project is not a gift to neighboring property owners. As discussed in the FEIS, even after the GPP is affirmed, no development under the GPP can occur on any site without a separate, individually negotiated and executed development agreement between the site's owner and/or developer and ESD. Each development agreement would ensure that public benefits are commensurate with the benefits that accrue to the owner of such site.

Comment C-7: We continue to object to the overall project description, specifically to the blight, unsanitary and slum terms used to qualify the area. We further

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note that the Vornado Chair has let his properties become blighted with the admitted goal (at times successful) of extorting subsidies from city and state governments in New York and Massachusetts. Mr. Roth was quoted in a WSJ article saying: “Why did I do nothing?” Mr. Roth said, according to an article on the lecture in The New York Observer. “Because I was thinking in my own awkward way, that the more the building was a blight, the more the governments would want this to be redeveloped; the more help they would give us when the time came.” ESD should carefully consider whether they are about to reward a bad property owner who may have caused blight and unsanitary conditions of their own properties for their own benefit. (Law-Gisiko_048)

Response C-7: Please refer to the response to Comment 16 in Chapter 26 of the FEIS. Chapter 1 of the FEIS, “Project Description,” and the existing conditions sections in the FEIS accurately describe existing conditions, including substandard conditions, within the Project Area to the extent they are relevant to the EIS analyses.

Comment C-8: I am pleased to see that recommendations from the CACWG to provide social services on site are included. I am concerned that these services have been delegated to sites that would only be developed if the southern expansion were to occur. An alternative proposal for these services must be included so that they are guaranteed if the southern expansion is not selected. (Simone_047)

Response C-8: Please refer to the response to Comment 1-64 in Chapter 26 of the FEIS. In addition, the State has committed to provide additional funding for social services and homeless outreach in and around the Project Area.

Comment C-9: It is critical that all new development be designed with the pedestrian experience at the forefront, such as ensuring large commercial building entrances and unactivated street frontage do not replace any potential vibrant street life. While the November 2021 revision to the GPP reduces maximum lobby widths, it still allows lobbies to take up to 100 feet of avenue facing blocks in multiple locations, and should be further reduced. Station entrances should be required to be large, easy to find and consistent in design to ensure convenient wayfinding for transit users. New pedestrian space should not become hijacked by other needs. Amenities such as accessible seating and tables should be available in all public spaces. Garbage, loading, utilities and other building operations must be handled inside of the building. (Nadler et al_050)

Response C-9: Please refer to the response to Comment 1-45 in Chapter 26 of the FEIS.

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- Comment C-10:** The gateway to New York, its largest transportation hub, should represent the City. A new grand train hall can be built if Madison Square Garden is moved to a more appropriate site. Of the two options for a train hall on the potential southern expansion block, we have a strong preference for the avenue facing option, rather than a mid block train hall; however, either option will be off-set from the majority of tracks. We continue to demand that Amtrak, MTA and New Jersey Transit engage the users of Penn Station and the surrounding community in discussions on the renovation of the station and the Penn Station Master Plan. (Nadler et al_050)
- Response C-10:** Please refer to the responses to Comments CT-12 and 1-53 in Chapter 26 of the FEIS.
- Comment C-11:** Understanding the challenges of moving MSG, we maintain that moving MSG is in the best long term interests of our city: the ability to provide for a grand above-ground train hall, enable the construction of wider platforms and realigned tracks, allow for track expansion without displacing residents, facilitate ease of public realm improvements, and provide for the addition of through running. (Nadler et al_050)
- Response C-11:** Please refer to the response to Comment CT-12 in Chapter 26 of the FEIS.
- Comment C-12:** ESD appears to have considered only one primary source for funding Penn Station improvements: Vornado. This is neither prudent nor necessary. The DEIS makes financing an issue, but it – like ESD – fails to explore other means of financing all or a portion of the costs. For example, ESD and the DEIS should study how much income can be generated by a modest surcharge imposed on all of the trips that start or terminate in Penn Station each day. The State could borrow against this income stream in the same manner as it would against PILOT funding. (Gonzalez_015)
- Response C-12:** Please refer to the response to Comment 1-29 in Chapter 26 of the FEIS.
- Comment C-13:** Unfortunately, Empire State Development refuses to release basic information to Legislators and the public about the Penn Station deal's financing. The newly-released, Final Environmental Impact Statement notes that "Project financing is not part of the, EIS scope" and further states that "the terms of potential payment agreements or other, financing options are yet to be determined.", Does ESD not know how it intends to fund the project? Why can't ESD make it clear, why it wants to fund state transportation infrastructure using an opaque scheme that, essentially steers future New York City property tax revenue to the State via a

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Payments, in Lieu of Taxes (PILOT) deal and puts all the risk on taxpayers? (Marcello_006)

What is the logic of this financing approach given that there are, frequently cost overruns on mega projects? PILOTs won't be able to adjust to, cost overruns, nor will the real estate market, meaning the State will have to pay for, any increases in costs. (Marcello_006)

Response C-13: Please refer to the responses to Comments CT-5, CT-6, CT-7, 1-20, and 1-28 in Chapter 26 of the FEIS.

Comment C-14: As part of this redevelopment project, why is the State not proposing to end Madison Square Garden's \$44 million annual tax abatement, which has cost New York City over \$875 million in lost tax revenue since 1982 (See IBO's testimony to the State Senate)? (Marcello_006)

Response C-14: Please refer to the response to Comment 1-26 in Chapter 26 of the FEIS.

Comment C-15: ESD's GPP assumes that Penn Station must be expanded outside of its current footprint but to date has not seriously considered through running as an alternative. (Sinigalliano_046)

Gateway should enable us to implement through-running which would allow trains to travel through Manhattan to other centers of business activity in the region instead of languishing in rail yards, or to return empty. Through-running, the modern international standard, can be implemented in the envelope of the current Penn Station and Moynihan and eliminate the need to demolish any buildings on 31st and 30th Streets. Why is this opportunity being squandered? (Turvey_004)

Response C-15: Please refer to the response to Comment CT-10 in Chapter 26 of the FEIS.

Comment C-16: Rather than relying on the putative open space provided for in the GPP, the DEIS should consider an alternative that includes a public park, perhaps with outdoor public athletic facilities to complement the professional arena at MSG, within the Project Area. For instance, a larger portion of Site 2 could provide much-needed outdoor space instead of an office building, which would greatly reduce the adverse impacts of the Proposed Project. (Gonzalez_015)

Response C-16: Please refer to the response to Comment 21-14 in Chapter 26 of the FEIS.

Comment C-17: How will displaced residents be compensated? During the joint Senate hearing on June 24, Senator Krueger asked Commissioner Knight what ESD's commitment to displaced residents is. Commissioner Knight would only say that ESD would follow federal regulations. These

regulations, which offer residents a maximum one-time payment of \$7,200, are inadequate considering the value of property in the area and the high cost of rent. In addition, there have been no guarantees that rent regulated tenants would be able to keep their status in the event that they are relocated. Current rent regulated tenants at risk of displacement should remain rent regulated regardless of whether they are income qualified for an affordable unit. Before this FEIS is approved, ESD must make a clearer commitment to how both residents and businesses would be relocated equitably. (Krueger_010)

ESD's GPP does not provide any protection for displaced businesses or their employees and almost no protection for displaced residences. It is also actually carefully calculated to rob rent regulated seniors of their legal NY rent stabilization when their lifelong homes are destroyed and they are displaced. (Sinigalliano_046)

I am against eminent domain that would displace residents and businesses. The state must thoroughly pursue a path to increase station capacity without displacing local residents. If the southern expansion plan moves forward in the end, new housing on another site should be developed first with current residents having the first shot at moving there. Any residents in current affordable units must be supplied with an equivalent affordable unit with the same or better terms. Long time residents facing displacement have concerns about what they are facing, including potential timelines, options and compensation. Greater efforts must be made to ensure residents have all the information and assistance they need. (Simone_047)

There are concerns that the compensation received under federal regulations for displaced residents is inadequate. The GPP must provide for the permanent relocation of residential tenants, within the immediate area, if desired, at the tenant's existing affordability levels. Current rent regulated tenants at risk of displacement should remain rent regulated in any new unit, regardless of whether they are income qualified for an affordable unit. (Nadler et al_050)

Response C-17:

Please refer to the responses to Comments 1-39 and 4-4 in Chapter 26 of the FEIS.

New York State is committed to working with any rent regulated tenants and businesses that may be affected by a future potential southern expansion of Penn Station. Residential displacement in the Project Area could occur only on the potential Penn Station expansion sites and only if those sites are selected by the involved Railroads (Amtrak, MTA, and New Jersey Transit [NJT]) and approved by the federal government as the preferred alternative for the station expansion project. ESD's GPP

does not authorize ESD to condemn, otherwise acquire, or relocate occupants of Sites 1, 2, and 3.

Federal regulations apply to projects that receive federal financial assistance and/or require federal approvals, as is anticipated for the potential Penn Station expansion project. Specifically, the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C. § 4601 et seq.) and regulations promulgated under 49 CFR Part 24 (collectively, the “Uniform Act”) govern relocation of residents from a federally supported project. The railroad entity or entities that carry out a potential Penn Station expansion with federal assistance and approvals would be responsible for relocating any displaced residents under a relocation plan that complies with the Uniform Act and is approved by the lead federal agency, typically as part of the binding commitments enumerated under a federal grant agreement for the project.

The Uniform Act provides that “no person shall be required to move from a displacement dwelling unless comparable replacement housing is available to such person.” The characteristics of a comparable dwelling include that it be safe and sanitary, currently available, and “[w]ithin the financial means of the displaced person.”¹

Financial rental assistance also is available under the Uniform Act, and any displaced residents may be compensated for “actual moving and related expenses, as the Agency determines to be reasonable and necessary.”² Although basic rental assistance under the Uniform Act is subject to certain monetary limits, displaced persons may be eligible to receive rental or other relocation assistance without regard to such limits under the “Replacement Housing of Last Resort” provisions of 49 CFR §24.404 when it can be demonstrated that “comparable replacement dwellings are not available within the monetary limits for owners or tenants.” Such a “Housing of Last Resort” program was approved by the Federal Transit Administration and successfully implemented by MTA for rent-regulated residents displaced by the first phase of the Second Avenue Subway Project. In addition, tenants received relocation advisory assistance pursuant to the requirements of the Uniform Act.³

The Railroads in New York have a history of supplementing these requirements, and expect to work closely with elected officials and local stakeholders should similar efforts prove necessary in connection with the potential Penn Station expansion. Although neither of the railroad

¹ See 49 CFR § 24.2(a)(6).

² See 49 CFR §§ 24.402(b) & 24.301 through 24.306.

³ See 49 C.F.R. § 24.205.

entities that would construct the potential Penn Station expansion project has the legal authority to override laws and regulations that govern the status of rent regulated tenants, relocation advisory assistance would include working with agencies such as the New York City Department of Housing Preservation and Development (HPD), the New York City Housing Authority (NYCHA), and New York State Homes and Community Renewal (HCR) to ascertain whether displaced residents can be preferentially placed in suitable replacement housing. In addition, ESD is committed to providing displaced residents the option of returning to affordable housing units on the Project development sites, subject to income limitations to be determined.

Comment C-18: The sidewalks surrounding Penn Station are overcrowded and an increase in station capacity combined with new development will exacerbate that. Pedestrians must be the top priority in any new street designs and pedestrian space must not be impeded by other needs. All building frontage in the area should be active, avoiding wide lobby entrances or dead space alongside building entrances. All building operations such as loading and garbage removal should take place in buildings' interiors. (Simone_047)

Response C-18: Please refer to the responses to Comments 1-44 and 1-45 in Chapter 26 of the FEIS.

Comment C-19: The GPP does not provide any public services unless their preferred southern expansion alternative is approved by NEPA which they have no control over. (Sinigalliano_046)

Response C-19: Please refer to the responses to Comments 1-51 and 1-64 in Chapter 26 of the FEIS.

Comment C-20: ESD's GPP continues to be focused on a massive office real estate development and does not coordinate, phase or properly align transit improvements with real estate development which is a critical flaw with dire consequences. (Sinigalliano_046)

Response C-20: Please refer to the response to Comment 1-52 in Chapter 26 of the FEIS.

ANALYTICAL FRAMEWORK

Comment C-21: The FEIS presents significant deficiencies – It does not take in account the cumulative effects of the two largest projects in New York City history which are located within 2000 ft. of each other along 8th Avenue:

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- Penn Complex and the Port Authority development of two bus terminals and four towers. (LeFrancois_031)
- Response C-21:** Please refer to the responses to comments 2-12 and 14-4 in Chapter 26 of the FEIS and the response to Comment B-6 above.
- Comment C-22:** The scope and location of the transit improvements and potential renovation and expansion of Penn Station (the “Penn Station Renovation”) are currently unknown and will be determined, in the future, by a myriad of agencies, including the Metropolitan Transportation Authority, New Jersey Transit, Amtrak, and/or the Long Island Railroad. MSG’s lease expires in 2023 and its future status is unknown. Therefore, the plan contained in the GPP is premature and its environmental impacts cannot reasonably be determined. (Gonzalez_015)
- Response C-22:** Please refer to the response to Comment 2-11 in Chapter 26 of the FEIS.
- Comment C-23:** The Study Area should be broadened and ESD should consider the need for, goals, and environmental impact of the Proposed Project in context with the Hudson Yards rezoning and resulting development, the replacement and expansion of the Port Authority Bus Terminal, and the conditions to the east side of Herald and Greeley Squares, including the low-rise buildings on the south side of West 34th Street and the potential development of Macy’s. (Gonzalez_015)
- Response C-23:** Please refer to the response to Comment 2-12 in Chapter 26 of the FEIS.
- Comment C-24:** Data collected during the Covid-19 Pandemic is not an accurate reflection of normal conditions in the Project Area and should not be the basis of the Neighborhood Conditions Study or findings under the UDC Act. In some instances, this data improperly reduces the baseline for determining significant adverse impacts, in others, the data suggests that baseline conditions are worse than they normally are (i.e., crime and homelessness). No rational or reasonable reading of the UDC Act can be construed to grant ESD the authority to supersede and take control a city’s zoning laws in an area simply because of a temporary situation in that area caused by a global pandemic. As such, a supplemental analysis is warranted and the DEIS should be revised once new data has been collected. This applies to all chapters in the DEIS as well as the findings required under UDC Act. (Gonzalez_015)
- Response C-24:** Please refer to the response to Comment 2-13 in Chapter 26 of the FEIS.

Pennsylvania Station Area Civic and Land Use Improvement Project

Comment C-25: ESD has unlawfully segmented the Proposed Project to circumvent meaningful environmental review. By treating the GPP for the revitalization of the Project Area as a separate and distinct project from the reconstruction and expansion of Penn Station (which will be done pursuant to an as of yet unpublished general project plan), ESD has divided this single project into two components in order to avoid meaningful environmental review. The GPP and DEIS should be incorporated into a larger GPP and DEIS that includes the Penn Station Renovation in order for ESD and the public to adequately consider the environmental impact of the redevelopment of Penn Station and its surrounding neighborhood. The importance of this cannot be overstated. The improper segmentation of this project violates state and federal environmental law and is particularly obvious in this instance because, despite the fact that ESD claims Penn Station is not part of the GPP (and therefore not within the scope of environmental review for the Proposed Project), Penn Station itself is the legal justification for the GPP under the UDC Act. ESD cannot maintain that the Proposed Project qualifies as both a Civic Project and a Land Use Improvement (each a threshold designation that enables ESD to override NYC zoning by imposing the GPP) without Penn Station. ESD cannot use the need to expand Penn Station as the basis for the Proposed Project and its justification for a zoning override under the UDC Act without describing the expansion in detail in the GPP and studying its environmental impact in the DEIS. (Gonzalez_015)

Response C-25: Please refer to the response to Comment CT-13 in Chapter 26 of the FEIS.

Comment C-26: As noted in our previous comments, CB5 believes that the GPP takes a segmented approach that is contrary to sound environmental review principles. The GPP encompasses Penn Station, MSG and Moynihan Farley buildings, but refuses assess Penn Reconstruction, Penn expansion or MSG and its potential relocation. (Law-Gisiko_048)

Response C-26: Please refer to the response to Comment CT-13 in Chapter 26 of the FEIS with respect to segmentation, and response to Comment CT-12 with respect to the relocation of Madison Square Garden.

Comment C-27: The continued presence of MSG blocks the construction of the grand train hall our city deserves. MSG support beams restrict realigning station tracks and platforms and also heavily reduce the viability of a through-running option. Any public realm improvements will be negatively impacted due to the loading operations of MSG and the disruptive presence of trucks that regularly park along Eighth Avenue taking both street and sidewalk space. The goal of a world class, welcoming and

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efficient transportation hub cannot be fully met until MSG is moved. (Simone_047)

Response C-27: Please refer to the response to Comment CT-12 in Chapter 26 of the FEIS with respect to the relocation of Madison Square Garden and the response to Comment CT-10 with respect to through-running train service.

Comment C-28: We note that the FEIS does not analyze the cumulative impacts of the GPP and the Port Authority Bus Terminal Redevelopment. We believe that this omission is a grave failure that nullifies the FEIS conclusions. We request that ESD reconvenes its environmental consultants' team and completes the FEIS evaluating cumulative impacts of the GPP, and the PANYNJ Bus Terminal Redevelopment, as mandated by SEQRA. (Law-Gisiko_048)

Response C-28: Please refer to the response to Comment 2-12 in Chapter 26 of the FEIS and the response to Comment B-6 above.

Comment C-29: We note that as part of a segmented approach, the demolition of Hotel Pennsylvania, a property eligible for the National Register and currently ongoing, amounts to anticipatory demolition. This opinion is shared by the National Trust. (Law-Gisiko_048)

Because ESD's GPP puts the cart before the horse which may allow historic buildings to be demolished before completing the required NHPA review the project plan adds additional irresponsible risk to NY taxpayers because of possible federal funding loss. This is unacceptable! (Sinigalliano_046)

Response C-29: Please refer to the response to Comment 2-9 in Chapter 26 of the FEIS.

Comment C-30: The DEIS concludes that a No Action Alternative in which Sites 1, 2, 3, 6, and 8 would remain unchanged from existing conditions and as-of-right development would occur on Sites 4, 5, and 7 would not meet the goals and objectives of the Proposed Project. Specifically, the DEIS states that the No Action Alternative would not "improve passenger rail and transit facilities and pedestrian circulation, access, and safety with the implementation of transportation and public realm improvements and the creation of new open space." (21-2). The DEIS incorrectly concludes that Sites 6, 7, and 8 would remain unchanged under the existing conditions. Most of the lots on Site 6 are underdeveloped; therefore, each of them individually and an assemblage or some or all of them are potential development sites. Site 8 was revealed to be a potential development site when Vornado applied for and received a special permit authorizing a 3.0 FAR bonus at the site (in conjunction with Site 7) for proposed

improvements to the subway. Thus, both Sites 7 and 8 are evidently potential redevelopment sites. Vornado did not construct the proposed improvements approved by the special permit in 2010. Site 7, which is overbuilt, is currently undergoing a transformation. The portions of Sites 4 and 5 that do not include public open spaces associated with 1 Penn Plaza are underdeveloped and, with ZFA now on the books, are enabled to redevelop to a higher FAR while providing improvements to accessibility of the transit stations below. (Gonzalez_015)

Response C-30: Please refer to the response to Comment 2-14 in Chapter 26 of the FEIS.

LAND USE, ZONING, AND PUBLIC POLICY

Comment C-31: It will have a significant and deleterious impact on light and air by locating up to ten supertall buildings within a small radius of Penn Station. Under zoning, the impact of such increased bulk would be mitigated by the sky exposure plane regulations applicable in the Special Midtown District. (Gonzalez_015)

Response C-31: Please refer to the response to Comment 3-2 in Chapter 26 of the FEIS.

Comment C-32: We continue to call for any land use and zoning action in our district to be undertaken by the city. We believe any action must undergo ULURP. New York City is very well versed in land use and zoning actions, and much more skilled in these matters than the state. Zoning and land use are the prerogative of municipalities and should not be usurped. We applaud Senators Hoylman, Jackson and Krueger for co-sponsoring a bill (S6556) that would require this plan to be subject to ULURP. We urge the legislature to pass this bill at the next legislative session (2023), regardless of the state action on the GPP. (Law-Gisiko_048)

Response C-32: Please refer to the response to Comment CT-2 in Chapter 26 of the FEIS.

Comment C-33: We continue to raise the issue of daylight access. The current zoning requires daylight evaluation and enforces daylight threshold. Same metrics should remain so as to protect our district from a canyon effect. Dark streets are the very reason New York City enacted the zoning resolution in 1916. It is imperative we avoid mistakes from the past. (Law-Gisiko_048)

Response C-33: Please refer to the response to Comment 3-6 in Chapter 26 of the FEIS.

SOCIOECONOMIC CONDITIONS

Comment C-34: The DEIS states that the “Proposed Project would not result in significant adverse impacts due [to] changes socioeconomic conditions.” This is false. The GPP would eliminate more than one hundred rent stabilized housing units and decimate a host of economically diverse businesses in the Project Area, an obvious adverse change to socioeconomic conditions. The DEIS fails to adequately assess the impact of the Proposed Project on midmarket offices like those located on Site 6. Businesses located in Class B and Class C office space will be displaced from the Project Area and will not be able to relocate within it because the Class B office space will be replaced with more expensive Class A office space. Moreover, the DEIS fails to account for the fact that existing Class B and Class C offices located within the Project Area benefit from proximity to Penn Station and from lower rents in older building stock. The DEIS summarily concludes that these offices will be able to relocate elsewhere in New York City, but does not substantiate this claim. Moreover, the DEIS does not account for the fact that upon relocating, these businesses will be severed from the transit hub upon which they too depend nor does the DEIS explain why Class B and Class C office tenants should be forced to endure longer commute times than those that can afford to pay more rent. The DEIS does not adequately address the impact of the Proposed Project on economic diversity. Class B and Class C offices tend to be significantly less expensive per square foot than Class A offices. As a result of the Proposed Project, all lower cost offices that will be available for small or midmarket businesses will be eradicated, eliminating economic diversity from the business community in the Project Area and from Midtown Manhattan. Included in the Class B and Class C buildings are ground floor retail and restaurant establishments that cater to middle- and lower- class people who work in the local establishments. The DEIS does not address the fact that replacement by Class A buildings will also displace these lower cost stores and restaurants, which will not be able to afford the rent in the new buildings and will remove appropriately priced retail and restaurants for the middle- and lower- class people who will work in the area. (Gonzalez_015)

Response C-34: Please refer to the response to Comment 4-6 in Chapter 26 of the FEIS.

Comment C-35: Community Board Five strongly objects to the use of eminent domain and the displacement of residents and businesses. We also question the assessed number of residents impacted by the proposal and believe it may be underreported in the FEIS. (Law-Gisiko_048)

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Response C-35: Please refer to the responses to Comments 1-39, 4-4, and 4-5 in Chapter 26 of the FEIS and the response to Comment C-17 above.

Comment C-36: Any plan that results in the displacement of small businesses should offer temporary spaces during the construction period and relocation within the new towers for existing small businesses, stores and nonprofits, of similar size to current locations, at current rent levels and terms. (Nadler et al_050)

Response C-36: Please refer to the response to Comment 4-4 in Chapter 26 of the FEIS.

COMMUNITY FACILITIES AND SERVICES

Comment C-37: The GPP should be amended to include a significant number of permanently affordable housing units, consistent with the City's stated goal of creating affordable housing, which would necessitate a revised community facility and services analysis. The revised GPP marginally increases the number of residential units that may be developed within the Project Area (but are not required) by approximately 1,200 units. At minimum, this change warrants a supplemental EIS so that the impact of those additional units on community facilities and services can be considered. (Gonzalez_015)

Response C-37: Please refer to the response to Comment 5-3 in Chapter 26 of the FEIS.

Comment C-38: The displacement of social services, including a food pantry operated by the Church of St John the Baptist, a drop-in center and other critically important social services to a very vulnerable population are unacceptable. (Law-Gisiko_048)

Response C-38: Please refer to the response to Comment 5-1 in Chapter 26 of the FEIS. In addition, the State has committed to provide additional funding for social services and homeless outreach in and around the Project Area.

Comment C-39: CB5 also notes that if the Penn expansion to the south is NOT the preferred alternative, sites 1, 2, and 3 would not be developed and therefore there would be no mandatory affordable housing and no mandatory community facilities as part of the GPP. This is in our opinion a major flaw of the proposal. (Law-Gisiko_048)

Response C-39: Please refer to the responses to Comments 1-64 and 4-5 in Chapter 26 of the FEIS. Please also refer to the response to Comment C-3 above.

OPEN SPACE

Comment C-40: In addition to creating an unprecedented number of supertall towers within a tight radius of Penn Station, the GPP will eliminate the Privately Owned Public Space that generated FAR bonuses for One Penn Plaza on block 783, which is owned by Vornado, and does not replace it with comparable outdoor space. Even under the amended GPP the Proposed Project does not create useable open space. Instead, it counts as open space the additional square footage of widened sidewalks in the Project Area. This sleight of hand will not result in actual recreational space. Indeed, even using the artificially inflated numbers in the DEIS, the Project area will contain a total worker population of 325,523 and a meager 10.12 acres of passive open space, a ratio of .031 acres of open space per 1,000 workers, which is only 20.6% (!) of the City's goal of .15 acres per 1,000 workers. As noted, the DEIS also fails to consider the actual influx of users within the Project Area, which will further exacerbate this critical flaw with the GPP. (Gonzalez_015)

Response C-40: Please refer to the response to Comment 6-3 in Chapter 26 of the FEIS.

Comment C-41: CB5 strongly objects to the methodology used to assess open space. Including sidewalks and subway entrances into the computation is misleading. (It is inaccurate to compare it to Rockefeller Center, as Rock Center open space acreage does NOT include sidewalks and subway entrances). (Law-Gisiko_048)

Response C-41: As described in Chapter 1, "Project Description," of the FEIS, the total amount of publicly accessible open space to be created on Site 2 would be approximately 30,800 square feet (sf) (0.71 acres). This space is considered in the analysis of open spaces in Chapter 6, "Open Space," of the FEIS. Chapter 1 also notes that in addition to the 0.71 acres of publicly accessible open space, each development site would be required to provide public space that may include additional sidewalk widenings, or pedestrian circulation space in front of transit or building entrances. The FEIS does not consider these sidewalk widenings or transit entrances "open space" for the purposes of SEQRA and these additional public spaces are not included in the calculations presented Chapter 6. Please also refer to the response to Comment 1-37 in Chapter 26 of the FEIS.

Comment C-42: Overall, under the proposed plan, the amount of open space per user would be drastically reduced. The plan miserably fails to capture the opportunity to create a grand public and open space with civic purpose around the busiest transit hub in the western hemisphere. (Law-Gisiko_048)

Response C-42: Please refer to the response to Comment 1-37 in Chapter 26 of the FEIS.

SHADOWS

Comment C-43: The DEIS concludes that the towers included in the Proposed Project would cast significant shadows within the Project Area and beyond, including on open space [and light sensitive historic resources.] The revised GPP calls for a reduction in the heights of the towers on Sites 1 and 2. This does very little to mitigate the adverse shadow impact of the Proposed Project caused by the towers on Sites 2 and 3, on the south and southeast side of the Project Area, which will cast the most impactful shadows for the longest duration. The DEIS fails to consider whether, despite the reduction in heights, the Proposed Project still has a significant adverse impact by creating such shadows, and what additional mitigation can be recommended, such as eliminating the building on Site 2 and replacing it with useable, recreational open space and leaving West 31st Street a through street for vehicular access to Penn Station. (Gonzalez_015)

Response C-43: Please refer to the response to Comment 7-6 in Chapter 26 of the FEIS.

HISTORIC AND CULTURAL RESOURCES

Comment C-44: A large number of historic and cultural resources would be demolished under this proposal. We particularly lament the current demolition of the historic Hotel Pennsylvania, a McKim, Mead & White building built in 1919. Because the GPP is a segmented action, it does not take into account the cumulative impact of all the land use actions. The various segments (GPP, Penn Reconstruction, Penn expansion), if reviewed as a whole, would assess architectural resources under Section 106 of the National Historic Preservation Act (NHPA) and Section 4(f) of the U.S. Department of Transportation Act of 1966 (Section 4(f)). Demolition of Hotel Pennsylvania is anticipatory demolition and is prohibited under both section 106 and section 4(f). It appears evident that the reason for segmentation is to avoid proper review of environmental impacts, including of demolition of historic resources. (Law-Gisiko_048)

Response C-44: Please refer to the response to Comment CT-13 and 2-9 in Chapter 26 of the FEIS.

Comment C-45: We are pleased that the Gimbels Skybridge, a historic copper-clad suspended bridge has been identified as a historic resource. Every effort must be made to retain this very important structure. If this plan were to be approved, it is feasible to remove the Manhattan Mall building without

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destruction of the Gimbels Skybridge. We urge ESD to fully mitigate this impact (fully retain Gimbels Skybridge) in the GPP. (Law-Gisiko_048)

Response C-45: Please refer to the response to Comment 22-3 in Chapter 26 of the FEIS.

URBAN DESIGN AND VISUAL RESOURCES

Comment C-46: The DEIS fails to adequately describe the daunting visual impact of up to ten towers when viewed from within and outside the Project Area, and the impact at street level. Not recognizing these impacts, the DEIS fails to suggest mitigation measures for such impact. In both ways, the DEIS is deficient. (Gonzalez_015)

Response C-46: Please refer to the response to Comment 9-5 in Chapter 26 of the FEIS.

HAZARDOUS MATERIALS

Comment C-47: Presence of asbestos and other contaminants is cause for concerns expressed by residents in adjacent buildings. While precautions will be taken, the extent of demolition is such that concerns are not overcome. (Law-Gisiko_048)

Response C-47: Please refer to the response to Comment 10-2 in Chapter 26 of the FEIS.

TRANSPORTATION

TRAFFIC

Comment C-48: The impact of MSG operations must be taken into account when planning for the surrounding streets and sidewalks, including customer flow and loading operations. All trucks associated with MSG and its operations, including loading and news vehicles, should be accommodated within the building, and taken off our streets, sidewalks and open spaces. While the MSG site is not included in the current GPP, the impacts of its presence and operations will continue to have an adverse impact on the surrounding streetscape that will be difficult to mitigate. (Nadler et al_050)

Response C-48: Please refer to the response to Comment 14-18 in Chapter 26 of the FEIS.

TRANSIT

Comment C-49: The failure to truly account for the influx of additional users of Penn Station, as well as employees at the proposed towers who do not travel to/from Penn Station, is a fundamental flaw in the DEIS. The Transportation chapter states that “based on a detailed assignment of

project-generated bus trips and in consultation with NYCT, it was determined that none of the express or local bus routes serving the study area would incur 50 or more peak hour riders in a single direction.” (14-6). The chapter continues that because of that determination, “a detailed bus line-haul analysis is not warranted and the Proposed Project is not expected to result in any significant adverse bus line-haul impacts.” This is inconsistent with the DEIS’s astonishingly low projection of up to 22,000 new pedestrians in the area, and ignores the fact that not every user of the ten new megatowers will be coming through Penn Station. (Gonzalez_015)

Response C-49: Please refer to the response to Comment 14-24 in Chapter 26 of the DEIS.

PEDESTRIANS

Comment C-50: The traffic impacts outlined (and, as explained above, underestimated) in the DEIS are not, according to that document, going to be mitigated. Rather than consider alternatives that would mitigate traffic impacts, the DEIS concludes that the Proposed Project will result in significant adverse impacts at over 70% of intersections within the Project Area.

Similarly, pedestrian impacts are forecast to be significant with a projected increase of 20,000 to 22,000 new pedestrians at the Project Area by 2038, resulting in adverse impacts at 81 percent of crosswalks within the Project Area. Lastly, but crucially, the DEIS cannot possibly account for the impact of subway elevators and escalators required for universal accessibility until the location, size, and configuration of the revitalized Penn Station are known. That the GPP outlines potential locations for subway elevators is ridiculous considering the location of the platforms that will be served by these elevators remains a mystery. What is certain, however, is that the location of this crucial infrastructure has a significant impact on both pedestrian and traffic flow at street level. (Gonzalez_015)

Response C-50: Please refer to the response to Comment 14-28 in Chapter 26 of the FEIS.

PARKING

Comment C-51: The DEIS should also consider whether and to what extent eliminating accessory parking from the planned developments on Sites 6, 7, and 8 will reduce the adverse impact of the Proposed Project. The Proposed Project is lauded as a transit-oriented development centered around Penn Station but anticipates accessory parking on Sites 6, 7, and 8. Considering the purpose of this project, the DEIS should consider an alternative that includes no accessory parking. Eliminating parking serves both

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environmental and cost-savings goals and can facilitate further expansion of the subterranean public transportation improvements at these sites. Moreover, the number of spaces belie any claim that they are a meaningful accessory to the proposed offices as there are far too few to accommodate the projected number of office workers. (Gonzalez_015)

Response C-51: Please refer to the response to Comment 14-31 in Chapter 26 of the FEIS.

GREENHOUSE GAS EMISSIONS

Comment C-52: Net zero requirements for buildings should exclude the possibility of purchasing carbon off-sets. (Nadler et al_050)

Response C-52: Please refer to the response to Comment 16-1 in Chapter 26 of the FEIS.

NEIGHBORHOOD CHARACTER

Comment C-53: It is laughable that the DEIS concludes that the Proposed Project would not result in a significant adverse impact on neighborhood character. The GPP will eliminate housing, displace residents, and eradicate economic diversity within the Project Area. The fact that DEIS concludes that the foregoing does not constitute an adverse impact on neighborhood character belies the validity of the Neighborhood Conditions Study and the entire environmental review for the project. Moreover, the DEIS is defective in that it does not incorporate MSG into its analysis of neighborhood character, transportation, urban design, or elsewhere. Omitting MSG from a description and analysis of the built environment within the Project Area is an astounding oversight that must be remedied in a Supplemental Environmental Impact Statement. The Project Area is defined as much by the diversity of its building type as by its economic diversity, all of which will be eradicated by the Proposed Project. The Project Area is characterized by its mixed-use, varied height building stock. The impact of the dramatic change from this longstanding multifaceted urban environment to one that consists of single-use monoliths is not contemplated in the DEIS. (Gonzalez_015)

Response C-53: Please refer to the response to Comment 19-1 in Chapter 26 of the FEIS.

Comment C-54: The area would be profoundly altered. The neighborhood character would be forever lost. The area, originally the site of the magnificent original Penn Station, is made up of historically significant buildings, including the Farley Building, the Hotel Pennsylvania, the church of St John the Baptist and other historic buildings, including 14 buildings eligible for the National Register. The area is made up of decades-old businesses and restaurants, including the Molly Wee, Pizza Suprema, guitar shops, music

rehearsal and recording studios. West 30th street between 7th & 8th Avenues, known as Music Street is home to dozens of music related businesses. A number of residential buildings have been home to longtime residents, many in the music and sound business. Under the proposed plan, the area would be demolished to make way to soulless luxury office towers interconnected to create the “Vornado Campus”, accessible only to corporate tenants of the buildings. The cluster would be similar to Hudson Yards to the West, a new neighborhood decried by most well-noted architectural critics. Of Hudson Yards, Michael Kimmelman architectural critic for the New York Times noted: “[Hudson Yards] is, at heart, a supersized suburban-style office park, with a shopping mall and a quasi-gated condo community targeted at the 0.1 percent.” The retail created under the GPP would be conducive to large corporate tenants and would see the disappearance of small businesses. (Law-Gisiko_048)

Response C-54: Please refer to the responses to Comments 19-1 and 19-2 in Chapter 26 of the FEIS.

CONSTRUCTION

Comment C-55: Community representatives need to be included in the planning, scheduling, scoping, and execution of any and all construction/development to ensure clear communication and managing quality of life impacts to the existing residents, including to mitigate construction noise. (Nadler et al_050)

Response C-55: Please refer to the response to Comment 20-1 in Chapter 26 of the FEIS.

ALTERNATIVES

Comment C-56: Notwithstanding the DEIS’ analysis of the benefits of lower density and additional residential housing, it incorrectly concludes that only a host of Class A megatowers can accomplish the goal of remedying substandard conditions within the Project Area. (Gonzalez_015)

Response C-56: Please refer to the response to Comment 21-5 in Chapter 26 of the FEIS.

Comment C-57: Adopted in 2021, New York City’s Zoning for Accessibility (“ZFA”) allows, by Authorization of the City Planning Commission, an increase in allowable FAR of up to the lesser of 200,000 square feet or 20% on qualifying sites (within 500 feet of a mass transit station outside of Central Business Districts and within 1500 of mass transit stations within Central Business Districts, including the Project Area) for providing transit station improvements. Crucially, the GPP and DEIS were

completed before ZFA was incorporated into the Zoning Resolution and, therefore, they do not take into account the fact that many, if not all, of the public transportation improvements anticipated in the GPP can be accomplished under the existing zoning by a broader number of landowners, not only those directly adjacent to transit stations. The significance of this cannot be overstated. The DEIS fails to consider alternatives that harness ZFA in lieu of the GPP. (Gonzalez_015)

Response C-57: Please refer to the response to Comment 21-6 in Chapter 26 of the FEIS.

Comment C-58: The massing of the proposed supertall office towers and other buildings will overwhelm the Project Area. Large-footprint office buildings will eliminate land-owners that have smaller holdings as well as a panoply of retailers, including smaller local stores. These impacts, however, can be mitigated. The DEIS and ESD should explore alternatives that would mitigate these impacts. One approach to mitigate these impacts that should be explored in the DEIS and by ESD, is that the GPP could increase the number of “Sites” within the Project Area that may utilize the incremental floor area generated by the GPP because they may be suitable for redevelopment within the timeframe needed to achieve the GPP’s financial goals, but have not been identified as “Sites” or otherwise programmed in the GPP (i.e., Madison Square Garden on Block 781, leased by the Madison Square Garden Company, and 2 Penn Plaza on Block 781 and 11 Penn Plaza on Block 807, both owned by Vornado). They could partake in the incremental (above current buildable) gross square footage (“gsf”) permitted in the Project Area (approximately 8.2 million gsf in the GPP and 6.6 million gsf in the November 10, 2021 Staff Proposed Revisions). With an increase in the number of Sites able to access the incremental gsf, the average allocation of floor area per Site would be reduced.

Another more aggressive alternative to mitigate the impacts of the Proposed Project that should be explored in the DEIS and by ESD would expand the GPP’s Project Area. In addition to tapping MSG, 2 Penn Plaza and 11 Penn Plaza as Sites, an expansion of the GPP’s Project Area would achieve – or surpass the State’s financial goal, reduce many of the negative impacts cited in the DEIS, and address many of the concerns of stakeholders. Under this scenario, the boundaries of the Project Area would be extended to include all of Blocks 809, 807, 806, and possibly Block 754, and the north side of 34th Street from 6th Avenue to 8th Avenue. The amount of floor area that might be able to be distributed without negative environmental impacts may be able to approach the original amount contemplated in the GPP. The number of Sites that could purchase development rights would be greatly increased (e.g., Macy’s is already poised to enlarge its building and provide transit improvements),

enabling owners of large and small sites to participate in the plan. With more floor area to sell through something like a district improvement fund, there would be more revenue for the State and the City to share. Layers of floor area bonuses, akin to HY and GEM, could provide improvements to the transit system, the public realm, and affordable housing. The number of sites in the Project Area that could be slated for market rate and affordable residential development could be increased, landmark buildings could be retained and their unused development rights sold to developments in the Project Area, independent owners of smaller lots and tenants that are smaller businesses could be retained (as suggested in the first scenario) and contribute to the success of the Project Plan, a larger open space—a park—on part of Site 2 could be introduced, and a host of creative and socially necessary uses could be introduced into the area.

The DEIS should also consider an alternative that expands the Project Area. In this scenario, in addition to including MSG, 2 Penn Plaza and 11 Penn Plaza as development sites, an expansion of the Project Area would achieve – or surpass the State’s financial goal, reduce many of the negative impacts cited in the DEIS, and address many of the concerns of stakeholders. Under this scenario, the boundaries of the Project Area would be extended to include all of Blocks 809, 807 and 806, the north side of 34th Street from 6th Avenue to 8th Avenue (including Macy’s), Herald Square and Greeley Square, as discussed above. (Gonzalez_015)

Response C-58: Please refer to the response to Comment 21-9 in Chapter 26 of the FEIS.

Comment C-59: The DEIS should consider an alternative that eliminates shared streets and prohibits sidewalk cafes on 31st and 33rd Streets to mitigate adverse pedestrian and traffic impacts from the Proposed Project. (Gonzalez_015)

Response C-59: Please refer to the response to Comment 21-7 in Chapter 26 of the FEIS.

Comment C-60: The DEIS should also consider an additional Lower Density Alternative that omits Site 6 from the Proposed Project. Omitting Site 6 from the Project Area will lessen the adverse impact of the Proposed Project on displaced businesses and the Empire State Building. Alternatively, the DEIS should consider a scenario in which sites not controlled by Vornado can be developed independently as part of the GPP. Doing so is an appropriate protection of property owners within the Project Area and would serve to foster architectural and economic diversity within the Proposed Project, mitigating many of the adverse impacts noted above. This scenario should include incentives for maintaining affordable office space (including Class B and Class C offices). Crucially, the adverse impacts related to development on or partially on Site 6 are unnecessary

Memorandum of Responses to Public Comments on the FEIS

to effect the Proposed Project because the public transit improvements on Site 6 are or can be achieved under ZFA, thus, a lower density alternative that omits Site 6 from the Proposed Project, or reduces the increase in FAR and places a height limitation on that site, will serve the goals of the GPP without adding to the environmental impact of the Proposed Project. (Gonzalez_015)

Response C-60: Please refer to the response to Comment 21-8 in Chapter 26 of the FEIS.

Comment C-61: The State should be looking at Madison Square Garden and 2 Penn Plaza and figuring how to give us back a real train station. (Turvey_004)

Response C-61: Please refer to the responses to Comments CT-12 and 21-4 in Chapter 26 of the FEIS.

MITIGATION

Comment C-62: It is of grave concern that many transportations' negative impacts are noted and left unmitigated. They include transit impacts, a total mockery as the plan's purpose is to improve transit, subway infrastructure, vehicular traffic and pedestrian traffic. A substantial number of negative impacts will remain unmitigated. It is of especially grave concern because these numbers DO NOT consider the cumulative impact of the Port Authority Bus Terminal Redevelopment. We ask that the FEIS be updated with accurate data taking cumulative impact into account. Pedestrian safety is paramount. EVERY NEGATIVE IMPACT ON PEDESTRIAN TRAFFIC MUST BE MITIGATED. (Law-Gisiko_048)

Response C-62: Please refer to the response to Comment 2-12 in Chapter 26 of the FEIS and the response to Comment B-6 above with respect to the consideration of the PABT project in the FEIS analyses. As discussed in the FEIS, the Project was updated between the DEIS and FEIS to include an expanded program of public transportation improvements, including the proposed Underground Concourse Network described in Chapter 1 of the FEIS, "Project Description." This Underground Concourse Network is projected to effectively reduce the number of significant adverse transit impacts compared to what was identified in the DEIS.

GENERAL SUPPORT

This section presents a list of commenters who expressed general support for the Project but did not provide substantive comments on the FEIS.

(Adams_019, Ahmad_043, Anis_041, Biederman_003, brucer44_035, Campos_042, Ceballos_036, Corso_045, Daniels_023, Di Prizito_021, Esquivel_037, Fagan_027, Fernandes_033, Funke_044, Geiger_014, Gerhards_012, Hsu_049, Karp_020, Keliuotis_040, Lee_032, Linder_028, Lunardi_018, Marotta_025, Majeski_026, Messick_017, Mulligan_008,

PNYC_007, Rivers_013, Roecklein_024, Schwark_038, Scissura_001, Shay_030, Sommer_022, Strauss_039, Torres_005, Williams_011, Wright_016, Yu_009)

D. LIST OF ORGANIZATIONS AND INDIVIDUALS WHO COMMENTED ON THE FINAL ENVIRONMENTAL IMPACT STATEMENT⁴

COMMUNITY BOARDS

1. Layla Law-Gisiko, Chair Land Use, Housing & Zoning Committee, Manhattan Community Board Five, letter dated July 11, 2022 (Law-Gisiko_048)
2. Jeffrey LeFrancois, Chair, Manhattan Community Board 4, letter dated July 8, 2022 (LeFrancois_031)

ELECTED OFFICIALS

3. Erik Bottcher, New York City Council, letter dated July 11, 2022 (Nadler et al_050)
4. Richard Gottfried, New York State Assembly, letter dated July 11, 2022 (Nadler et al_050)
5. Brad Hoylman, New York State Senate, letter dated July 11, 2022 (Nadler et al_050)
6. Robert Jackson, New York State Senate, letter dated July 11, 2022 (Nadler et al_050)
7. Liz Krueger, New York State Senate, letter dated June 29, 2022 (Krueger_010) and letter dated July 11, 2022 (Nadler et al_050)
8. Mark Levine, Manhattan Borough President, letter dated July 11, 2022 (Nadler et al_050)
9. Carolyn Maloney, U.S. House of Representatives, letter dated July 11, 2022 (Nadler et al_050)
10. Jerrold Nadler, U.S. House of Representatives, letter dated July 11, 2022 (Nadler et al_050)
11. Ritchie Torres, United States Congress, letter dated June 29, 2022 (Torres_005)

BUSINESSES AND ORGANIZATIONS

12. Dan Biederman, President, 34th Street Partnership, letter dated June 28, 2022 (Biederman_003)
13. Joseph A. Geiger, Executive Secretary-Treasurer, New York City District Council of Carpenters, letter dated June 29, 2022 (Geiger_014)
14. Basha Gerhards, Senior Vice President of Planning, Real Estate Board of New York, letter dated June 29, 2022 (Gerhards_012)
15. Diana S. Gonzalez, Executive Director, New Yorkers for a Better Plan, letter dated June 28, 2022 (Gonzalez_015)
16. Gary LaBarbera, President, Building and Construction Trades Council, letter dated June 30, 2022 (LaBarbera_002)
17. Elizabeth Marcello, Senior Research Analyst, ReInvent Albany, letter dated June 30, 2022 (Marcello_006) and letter dated July 8, 2022 (Marcello_034)
18. Petra Todorovich Messick, Senior Director of Portfolio Management, Gateway Program Amtrak, email dated June 29, 2022 (Messick_017)
19. Daniel Mulligan, Business Manager, Steamfitters Local 638, letter dated June 28, 2022 (Mulligan_008)
20. Partnership for New York City, letter dated June 29, 2022 (PNYC_007)
21. Voza Rivers, Chairman, Harlem Arts Alliance, letter dated June 29, 2022 (Rivers_013)

⁴ Citations in parentheses refer to internal comment tracking annotations.

Memorandum of Responses to Public Comments on the FEIS

22. Carlo A. Scissura, President and CEO, New York Building Congress, letter dated June 30, 2022 (Scissura_001)
23. Eugene Sinigalliano, President - 251 West 30th Street Residential Tenants Association, Beautification Director of the Midtown South Community Council, Residential Advisor - Empire State Development's Community Advisory Committee Working Group, letter dated July 11, 2022 (Sinigalliano_046)
24. Samuel A. Turvey, Co-Coordinator, ReThinkNYC, letter dated June 29, 2022 (Turvey_004)
25. Charles Weinstock, 251 West 30th Street Residential Tenants Association, 29th Street Neighborhood Association, City Club of New York, Alliance for a Human-Scale City , Environmental Simulation Center, Manhattan Community Board 5, Midtown South Community Council, Rethink NYC, email dated July 8, 2022 (Weinstock_029)
26. Lloyd A. Williams, President & CEO, The Greater Harlem Chamber of Commerce, letter dated June 29, 2022 (Williams_011)
27. Allen S. Wright, Political Director, International Union of Operating Engineers, letter dated June 30, 2022 (Wright_016)
28. Charles Yu, Senior Director of Business Alliance, Long Island City Partnership, letter dated June 30, 2022 (Yu_009)

GENERAL PUBLIC

29. Tony Simone, letter dated July 11, 2022 (Simone_047)

FORM LETTER

30. Tom Adams, form letter dated July 5, 2022 (Adams_019)
31. Omar Ahmad, form letter dated July 9, 2022 (Ahmad_043)
32. Luc Anis, form letter dated July 10, 2022 (Anis_041)
33. brucer44, form letter dated July 8, 2022 (brucer44_035)
34. Michelle Campos, form letter dated July 11, 2022 (Campos_042)
35. Andres Ceballos, form letter dated July 9, 2022 (Ceballos_036)
36. Steve Corso, form letter dated July 10, 2022 (Corso_045)
37. Frankie Daniels, form letter dated July 5, 2022 (Daniels_023)
38. John Di Prizito, form letter dated July 5, 2022 (Di Prizito_021)
39. Ernie Esquivel, form letter dated July 10, 2022 (Esquivel_037)
40. Steve Fagan, form letter dated July 5, 2022 (Fagan_027)
41. Donovan Fernandes, form letter dated July 8, 2022 (Fernandes_033)
42. Sandra Funke, form letter dated July 10, 2022 (Funke_044)
43. Jeff Hsu, form letter dated July 11, 2022 (Hsu_049)
44. Liza Karp, form letter dated July 5, 2022 (Karp_020)
45. Lisa Keliuotis, form letter dated July 11, 2022 (Keliuotis_040)
46. Jon Lee, form letter dated July 7, 2022 (Lee_032)
47. Jake Linder, form letter dated July 6, 2022 (Linder_028)
48. Gabrielle-Filippo Lunardi, form letter dated June 30, 2022 (Lunardi_018)
49. Don Majeski, form letter dated July 5, 2022 (Majeski_026)
50. Regina Marotta, form letter dated July 5, 2022 (Marotta_025)
51. Liam Roecklein, form letter dated July 5, 2022 (Roecklein_024)
52. Fred Schwark, form letter dated July 10, 2022 (Schwark_038)
53. Paul Shay, form letter dated July 7, 2022 (Shay_030)
54. Kenneth Sommer, form letter dated July 5, 2022 (Sommer_022)
55. Jesse Strauss, form letter dated July 10, 2022 (Strauss_039)

✱

Attachment A
Public Comments Received on the FEIS

From: Layla Law-Gisiko <>

Sent: Monday, July 11, 2022 11:54 AM

Subject: Comments on FEIS - PENNSYLVANIA STATION AREA CIVIC AND LAND USE IMPROVEMENT PROJECT

Dear Gabriela and Holly,

Please find attached Community Board Five's comments re: FEIS for

PENNSYLVANIA STATION AREA CIVIC AND LAND USE IMPROVEMENT PROJECT

Thank you for the opportunity.

Best regards,

Layla Law-Gisiko
Chair Land Use, Housing & Zoning Committee
Manhattan Community Board Five

MANHATTAN COMMUNITY BOARD FIVE COMMENTS

PENNSYLVANIA STATION AREA CIVIC AND LAND USE IMPROVEMENT PROJECT

Final Environmental Impact Statement (FEIS)

Manhattan Community Board Five has reviewed the GPP and its supporting documents since January 2020, and appreciates the opportunity to comment on the Final Environmental Impact Statement released on June 28th, 2022.

Overall, the scope, scale, purpose and goals have remained unchanged and while modest modifications have been made, they are mostly cosmetic and do not change the impact the proposed GPP will have on our district and our community.

Community Board Five continues to oppose the GPP. We continue to object for the same reasons stated in our resolutions dated July 2020, January 2021, February 2021, March 2021, and December 2021.

While we understand that the funding is not within scope of the GPP, we strongly disagree with this scope qualification.

We take the opportunity of the FEIS to ask that a full cost benefit financial analysis be presented with accurate financial information, before any consideration is given to the plan.

We are grateful to our senate and congressional representatives for their hard work securing the Bi-Partisan Infrastructure Law. We thank President Biden and Secretary Buttigieg for recognizing the importance of the North East Corridor, and specifically Penn Station as a neuralgic point in our nation. As announced by FRA administrator Amit Bose, \$23 billion has been appropriated for the North East Corridor, and an additional \$6B to Amtrak.

Before any land use and real estate plan can be considered, it is imperative that a full financial analysis be presented, so that we understand what the state of New York needs to fund, when, and to what proportion. We request the following detailed information to include the federal share of the infrastructure projects (Penn Reconstruction, Penn Expansion and other capacity-enhancement alternatives), New Jersey share for infra projects, federal funding sources (grants, loans, or combination of both), NY State already appropriated funds, bonds amount and structure (maturity, interest rate, etc.), credit enhancement cost, loan structure and guarantees, etc.

On the revenue side, we request the following: Value for TDR, date for TDR revenue to be collected, value to the city for PILOTs, value to the state for PILOTs, expected date for PILOTs revenue to be collected, alternate revenue source if towers do not get built under different

scenarios (if sites 1,2,3 are not redeveloped, if Vornado chooses not to develop sites 4-8, or parts thereof)

We note that over the course of the past two years, the chorus of opposition against the plan has grown louder and includes all major New York publications, advocacy groups, transportation groups, housing groups, preservation groups, community groups, good government group, residents, businesses, city, state and congressional elected officials to name a few.

The NY City Planning Commission issued a report on January 2022, on the proposed GPP that raises a number of concerns, including public realm and financial concerns.

At CB5 and other groups request, the NYC Independent Budget Office conducted an analysis of the project. In May 2022, they issued a scathing report titled On Track or Off the Rails? that raises numerous issues and calls for numerous questions to be answered before any step can be taken.

As the environmental review of the GPP is coming to its term, we want to emphasize the following concerns, and add the following comments to changes brought to the FEIS.

We thank ESD directors for their careful attention to our comments and urge them to vote NO on the GPP.

Project Description

The project description introduces a new level of ambiguity and vagueness about to plan itself, as well as its purpose.

We note that sites 1, 2, & 3 are referred to as potential development sites, as part of a potential Penn Station expansion.

We note that the stated goals, while materially unchanged, acknowledge that for example, the GPP would only partially fulfill the stated funding goal to pay for Penn reconstruction and expansion.

The Project Description, as well as Appendix A, refer to the CACWG, the Community Advisory Committee Working Group. For historical context, when the GPP was announced, and even before the draft scope of work was issued, ESD convened a Community Advisory Committee. ESD designated a retired district manager as Community Board Five representative, over CB5 chair and CB5 land use chair's objections. In the initial meetings, CB5 leaders were denied the right to attend these meetings. It required strong advocacy for relevant CB5 leaders to be admitted to participate in ESD's community engagement.

We note that once the broader CACWG was convened, it still excluded non-appointed parties such as good government groups, urban planning groups other than those specifically appointed or the media. On numerous occasion, non-appointed members attempted to join the CACGW meetings, but were denied access, We note that VORNADO, the sole developer to

benefit from the GPP was not an appointee of the CACWG, but was granted access to all but one meeting. The only meeting they did not attend is meeting #5, pertaining to funding and financing. It may be that VORNADO wanted to avoid giving the impression of impropriety but we note that meeting #5 presentation was provided by Ernst & Young, a consulting firm jointly hired by ESD and Vornado for the purpose of analyzing the financial implications of the GPP. It is fair to assume that VORNADO, having paid for the report, had already seen the report.

We note that both chambers of the State Legislature passed S8419-B/A9622-C (Ramos/Solages), a bill that would mandate CAC meetings (and their broader CACWG), consultations, documents and briefings to be publicly available. We reiterate our call to Governor Hochul to immediately sign the bill (that passed both chambers with unanimous votes) into law.

We continue to object to the overall project description, specifically to the blight, unsanitary and slum terms used to qualify the area. We further note that Vornado Chair has let his properties become blighted with the admitted goal (at times successful) of extorting subsidies from city and state governments in New York and Massachusetts. Mr. Roth was quoted in a WSJ article saying: ""Why did I do nothing?" Mr. Roth said, according to an article on the lecture in The New York Observer. "Because I was thinking in my own awkward way, that the more the building was a blight, the more the governments would want this to be redeveloped; the more help they would give us when the time came." ESD should carefully consider whether they are about to reward a bad property owner who may have caused blight and unsanitary conditions of their own properties for their own benefit.

Analytical Framework

As noted in our previous comments, CB5 believes that the GPP takes a segmented approach that is contrary to sound environmental review principles. The GPP encompasses Penn Station, MSG and Moynihan Farley buildings, but refuses assess Penn Reconstruction, Penn expansion or MSG and its potential relocation.

We note that the FEIS does not analyze the cumulative impacts of the GPP and the Port Authority Bus Terminal Redevelopment. We believe that this omission is a grave failure that nullifies the FEIS conclusions. We request that ESD reconvenes its environmental consultants' team and completes the FEIS evaluating cumulative impacts of the GPP, and the PANYNJ Bus Terminal Redevelopment, as mandated by SEQRA.

We note that the GPP is segmented and only evaluates the environmental impact of a land use and real estate action, itself a component of a much larger action that includes the reconstruction of Penn Station and a potential expansion of Penn Station to the south, or other capacity-enhancing action. We note that as part of segmented approach, the demolition of

Hotel Pennsylvania, a property eligible for the National Register and currently ongoing, amounts to anticipatory demolition. This opinion is shared by the National Trust.

We note that raising revenue is a stated goal of the GPP while funding and revenue is deemed out-of-scope. If out-of-scope, it should not be a criterion to decline mitigation. Yet, in many instances, negative environmental impacts are left unmitigated because mitigation would allegedly reduce revenue.

Land Use, Zoning, and Public Policy

We continue to call for any land use and zoning action in our district to be undertaken by the city. We believe any action must undergo ULURP. New York City is very well versed in land use and zoning actions, and much more skilled in these matters than the state. Zoning and land use are the prerogative of municipalities and should not be usurped.

We applaud Senators Hoylman, Jackson and Krueger for co-sponsoring a bill (S6556) that would require this plan to be subject to ULURP. We urge the legislature to pass this bill at the next legislative session (2023), regardless of the state action on the GPP.

Socioeconomic Conditions

Community Board Five strongly objects to the use of eminent domain and the displacement of residents and businesses. We also question the assessed number of residents impacted by the proposal and believe it may be underreported in the FEIS.

CB5 notes that if the Penn expansion to the south is NOT the preferred alternative, sites 1, 2, and 3 would not be re-developed and therefore there would be no mandatory affordable housing and no mandatory community facilities as part of the GPP. This is in our opinion a major flaw of the proposal.

Community Facilities and Services

The displacement of social services, including a food pantry operated by the Church of St John the Baptist, a drop-in center and other critically important social services to a very vulnerable population are unacceptable.

We support the creation of social services within some of the new proposed buildings, but we warn of the time gap between demolition of existing buildings and construction of new buildings that would house such services. The time gap may be as long as 20 years. This area of Manhattan cannot be left without social services for so long.

CB5 also notes that if the Penn expansion to the south is NOT the preferred alternative, sites 1, 2, and 3 would not be developed and therefore there would be no mandatory affordable housing and no mandatory community facilities as part of the GPP. This is in our opinion a major flaw of the proposal.

Finally, we are pleased to see a residential alternative being introduced, but are very displeased that the early childhood center impact will not be mitigated. If a residential alternative is the preferred alternative, it is imperative that early-childcare needs be fully met.

Open Space

CB5 strongly objects to the methodology used to assess open space. Including sidewalks and subway entrances into the computation is misleading. (It is inaccurate to compare it to Rockefeller Center, as Rock Center open space acreage does NOT include sidewalks and subway entrances).

Overall, under the proposed plan, the amount of open space per user would be drastically reduced. The plan miserably fails to capture the opportunity to create a grand public and open space with civic purpose around the busiest transit hub in the western hemisphere.

Shadows

The shadow impact caused by proposed buildings will be very significant, both in summer and winter months, and will impact open space as well as light sensitive resources. The shadow impact is unmitigated.

A full financial analysis of the plan must be presented so as to understand why shadow impact and other negative impacts cannot be mitigated.

Historic and Cultural Resources

A large number of historic and cultural resources would be demolished under this proposal. We particularly lament the current demolition of the historic Hotel Pennsylvania, a McKim, Mead & White building built in 1919.

Because the GPP is a segmented action, it does not take into account the cumulative impact of all the land use actions. The various segments (GPP, Penn Reconstruction, Penn expansion), if reviewed as a whole, would assess architectural resources under Section 106 of the National Historic Preservation Act (NHPA) and Section 4(f) of the U.S. Department of Transportation Act of 1966 (Section 4(f)).

Demolition of Hotel Pennsylvania is anticipatory demolition and is prohibited under both section 106 and section 4(f).

It appears evident that the reason for segmentation is to avoid proper review of environmental impacts, including of demolition of historic resources.

We are pleased that the Gimbels Skybridge, a historic copper-clad suspended bridge has been identified as a historic resource. Every effort must be made to retain this very important structure. If this plan were to be approved, it is feasible to remove the Manhattan Mall building without destruction of the Gimbels Skybridge. We urge ESD to fully mitigate this impact (fully retain Gimbels Skybridge) in the GPP.

Urban Design and Visual Resources

We appreciate ESD's effort to reduce the obstructions of the Empire State Building caused by the new buildings under the GPP. We unfortunately conclude that the mitigation is not

sufficient. We request that ESD refines the buildings envelope to fully mitigate the visual corridor impact on the Empire State Building.

Furthermore, we continue to raise the issue of daylight access. The current zoning requires daylight evaluation and enforces daylight threshold. Same metrics should remain so as to protect our district from a canyon effect. Dark streets are the very reason New York City enacted the zoning resolution in 1916. It is imperative we avoid mistakes from the past.

Hazardous Materials

Presence of asbestos and other contaminants is cause for concerns expressed by residents in adjacent buildings. While precautions will be taken, the extent of demolition is such that concerns are not overcome.

Transportation

It is of grave concern that many transportations' negative impacts are noted and left unmitigated. They include transit impacts, a total mockery as the plan's purpose is to improve transit, subway infrastructure, vehicular traffic and pedestrian traffic. A substantial number of negative impacts will remain unmitigated.

It is of especially grave concern because these numbers DO NOT consider the cumulative impact of the Port Authority Bus Terminal Redevelopment. We ask that the FEIS be updated with accurate data taking cumulative impact into account.

Pedestrian safety is paramount. EVERY NEGATIVE IMPACT ON PEDESTRIAN TRAFFIC MUST BE MITIGATED.

Noise

Construction until at least year 2044 suggests that noise will be an issue in the area for at least the next 22 years, and probably more. This community has endured already many years of construction related noise with the refurbishment of 2 Penn, the construction of Plaza 33 and the demolition of Hotel Pennsylvania, to name a few.

This community gravely objects to being subjected to further noise for such a long period.

Public Health

The presence of pollutants including asbestos in the large area to be demolished is cause for concern regarding public health.

Neighborhood Character

The area would be profoundly altered. The neighborhood character would be forever lost.

The area, originally the site of the magnificent original Penn Station, is made up of historically significant buildings, including the Farley Building, the Hotel Pennsylvania, the church of St John the Baptist and other historic buildings, including 14 buildings eligible for the National Register. The area is made up of decades-old businesses and restaurants, including the Molly Wee, Pizza Suprema, guitar shops, music rehearsal and recording studios. West 30th street between 7th & 8th Avenues, known as Music Street is home to dozens of music related businesses. A number of

residential buildings have been home to longtime residents, many in the music and sound business.

Under the proposed plan, the area would be demolished to make way to soulless luxury office towers interconnected to create the “Vornado Campus”, accessible only to corporate tenants of the buildings. The cluster would be similar to Hudson Yards to the West, a new neighborhood decried by most well-noted architectural critics. Of Hudson Yards, Michael Kimmelman architectural critic for the New York Times noted: “[Hudson Yards] is, at heart, a supersized suburban-style office park, with a shopping mall and a quasi-gated condo community targeted at the 0.1 percent.”

The retail created under the GPP would be conducive to large corporate tenants and would see the disappearance of small businesses.

Construction

As noted above, construction would last 22 years, in the best-case scenario.

This community would be subjected to a punishingly noisy and chaotic environment for a very long time.

Alternatives

The alternative admits that the No Unmitigated impact alternative is not desirable simply because it offers less financial incentive to the developer to build the towers. We reiterate our demand for a fully detailed financial analysis that presents a clear breakdown of projected revenue from TDR, revenue from excess tax revenue after NYC collection of their taxes, projected date for such tax revenue to start being collected, bond issuance structure, credit enhancement cost,

We remind ESD that a no-action alternative would allow New York City to enact its own upzoning, and capture the full benefit of a real estate tax increase, contradicting the notion that the area would have to remain untouched in perpetuity.

Mitigation

As noted above, too many negative impacts are left unmitigated for the proposal to be considered acceptable.

Unavoidable Adverse Impacts

We strongly disagree with the assertion that the plan will cause unavoidable adverse impacts in the following areas: community facilities, open space shadows, historic and cultural resources, visual resources, transportation, noise, construction, transportation, neighborhood character. We believe these adverse impacts to be avoidable.

Appendix K Alternatives

We appreciate the documentation of correspondence between SHPO and Vornado regarding Hotel Pennsylvania. It would be helpful to clarify whether AKRF is acting as ESD's consultant or as Vornado's consultant.

Also, it would be helpful to understand who commissioned and paid for the AAI report.



CITY OF NEW YORK
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JEFFREY LEFRANCOIS
Chair

JESSE R. BODINE
District Manager

July 8, 2022

Kevin S. Law
Chair
Empire State Development
633 Third Avenue - 36th Floor
New York, NY 10017

Hope Knight
President & CEO
Empire State Development
633 Third Avenue - 36th Floor
New York, NY 10017

Re: Final Environmental Impact Statement for Penn Station Area Civic and Land use Improvement Project

Manhattan Community Board 4 (MCB4) requests that the ESD board not certify the Penn Station Area Civic and Land use Improvement Project Final Environmental Impact Statement (FEIS) and approval of General Project Plan (GPP) unless the deficiencies regarding the lack of study of adverse impacts and proper mitigation pertaining to Community District 4 have been fully addressed.

1. The FEIS presents significant deficiencies – It does not take in account the cumulative effects of the two largest projects in New York City history which are located within 2000 ft. of each other along 8th Avenue: Penn Complex and the Port Authority development of two bus terminals and four towers.¹

The State Environmental Quality Review Act (SEQR) manual indicates that “Cumulative impacts must be assessed when actions are proposed, or can be foreseen as likely, to take place simultaneously or sequentially in a way that the combined impacts may be significant” ...” Another factor in examining whether two or more actions should be considered as contributing to cumulative impacts, is whether the two actions are in close enough proximity to affect the same resources.”

Each of the projects intends to increase the volume of commuters in the same area by at least 40%. The towers proposed for the Port Authority will be net additional in locations

¹ https://www.dec.ny.gov/docs/permits_ej_operations_pdf/seqrhandbook.pdf.

where there are currently no buildings. The areas affected in Manhattan Community District 4 have significant long term and short terms overlaps. The construction will occur at the same time. The impacts on the Subway lines A,C and E will be significant. As further illustration, the Port Authority intends to operate an interim bus terminal on West 30th Street between 9th and 10th Avenues, just one block away from the project. This will have significant negative impact on the volume of pedestrians and vehicles in the area.

This issue was raised repeatedly in our letters “the Secondary Area should be a 1/2 mile radius and should also take into consideration the cumulative effects of the Hudson Yards rezoning and Port Authority Bus Terminal Replacement Project.”² and in comments to the draft scope. The consistent answer ESD gave was:

“The DEIS analyses will account for known development projects within the study areas that are likely to be built by the analysis years, including developments currently under construction or that can be reasonably expected due to the current level of planning and applications for public approvals. These will include the Port Authority Bus Terminal project, if appropriate.”³

While the Port Authority Bus terminal appears within a few data tables, there is no quantification or analysis related to this project. As required by the SEQR, the FEIS must study the cumulative traffic, pedestrians, transit, air quality, noise and construction impacts of those projects to the neighborhoods along and west of 8th Avenue.

2. Mitigation of adverse impacts on the community: while there is no disputing that the transit benefits of the project are considerable, they essentially accrue to Class A and Trophy assets commercial landlords in midtown.⁴ In order to generate these benefits, the local community is asked to make many sacrifices (historic resources, 10,000 small business jobs, low-cost space for arts) without being compensated for these significant losses.⁵ While these lost assets may not be replaced one for one, it is crucial that mitigation be provided for this inequitable taking of community resources.

MCB4 believes that enhancing the permanent affordable housing on site 1 is an appropriate first step in mitigating these essential losses. Affordable housing is a common goal of CB4 and the Governor, but available sites to produce affordable units are few and far between. The GPP will create only 60 net new affordable units in the plan. By contrast, in CD4 in the last 10 years, hundreds of units of affordable housing were lost. Within the next 20 years the expiration of the 421-A benefits in CD4 will throw over 1,698 families out of their affordable residences.⁶ The GPP offers a number of sites with an optional residential use. Considering the financial incentives and focus of the lead

² <https://cbmanhattan.cityofnewyork.us/cb4/wp-content/uploads/sites/10/2020/08/22-CLU-TRANS-Letter-to-ESD-re-Response-to-Scoping-Hearing-on-Empire-Station-Complex-1.pdf>

³ <https://esd.ny.gov/sites/default/files/Empire-Station-Complex-Appendices-A-and-B.pdf>

⁴ Term of art in the real estate industry. Cushman and Wakefield

⁵ The project does provide for the relocation of the Homeless Intake center and for the residents

⁶ [MCB4 Affordable Housing Plan](#)

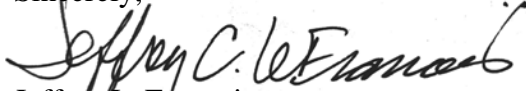
developer of Penn Complex, it is unrealistic to expect residential units to be built on any of those sites unless the residential use is required.

We ask that the number of residential/affordable units be increased on Site 1 as follows:

- Both buildings on site 1 should be 100% residential
- As recommended in the August 31, 2021 CACWG report “Significant affordable residential development should be a part of the plan on more than one site, we are open to exploring more than 12 FAR of residential if it includes a substantial affordable housing component”.⁷
- 100 % of the units should be permanently affordable. This will begin to mitigate the losses of community resources and the lack of affordable housing in the rest of the project. Consistent with long held positions, MCB4 recommends permanent affordability for individuals and families at range of incomes between 40% and 165% of Area Median Income (“AMI”).

We look forward to the issues raised in this letter being addressed in the FEIS and the GPP.

Sincerely,



Jeffrey LeFrancois

Chair

Manhattan Community Board 4

cc: Hon. Eric Adams, Mayor of the city of New York
City and State Elected Representatives
Department of City Planning
Port Authority of New York and New Jersey
Manhattan Community Board 5

⁷ [Recommendations of the Empire Station Complex Community Advisory Committee Working Group \(the “Working Group”\) submitted to Empire State Development on August 2, 2021.](#)

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Comments to NYS Urban Development Corporation Directors Regarding Approval of the Final Environmental Impact Statement for the Pennsylvania Station Area Civic and Land Use Improvement Project

State Senator Liz Krueger

June 29, 2022

I continue to have lingering questions about the projects' finances and effect on the neighborhood that have not been adequately answered by the FEIS. I ask that the Board of Directors answer these questions before approving the FEIS. If any of these questions are unanswerable at the moment, the ESD Board of Directors should wait to approve the FEIS until all substantial environmental impact questions are addressed. Thank you for taking these concerns into consideration before voting on the FEIS.

How will displaced residents be compensated?

During the joint Senate hearing on June 24, Senator Krueger asked Commissioner Knight what ESD's commitment to displaced residents is. Commissioner Knight would only say that ESD would follow federal regulations. These regulations, which offer residents a maximum one-time payment of \$7,200, are inadequate considering the value of property in the area and the high cost of rent.

In addition, there have been no guarantees that rent regulated tenants would be able to keep their status in the event that they are relocated. Current rent regulated tenants at risk of displacement should remain rent regulated regardless of whether they are income qualified for an affordable unit. Before this FEIS is approved, ESD must make a clearer commitment to how both residents and businesses would be relocated equitably.

Is the construction of new affordable housing dependent on the approval of a southern expansion of Penn Station onto Sites 1 through 3?

According to ESD's CT-8 Response, only Site 1A would be "required" to include residential uses. Residential uses are "permitted" on Sites 1B, 4, and 8. The response goes on to state that "up to 1,798 residential units could be built, of which 540 would be permanently affordable." I am worried about the uncertainty of the word "could." The least we can do for our neighbors who are relocated from homes they've had for decades is to ensure that housing for them is prioritized. Residential buildings should be the first ones built, and if Site 1A is not built, housing must be guaranteed on other sites.

If New Jersey and the federal government do not come through with their portion of financing for Penn Station redevelopment and/or expansion, is it possible that we could have development without station improvement?

During the June 24th hearing, Hope Knight stated that this is a possibility, and that any PILOT that does not go toward funding the Penn Station project would go to the city. What steps are being taken to ensure that we do not have real estate development without transit improvements?

Given the high demand for Class A office space, why must we financially incentivize developers to build it?

ESD's CT-4 Response makes a compelling argument that demand for Class A office space is high despite the pandemic and will continue to increase. Given that, what reason does ESD have that developers would need to be financially incentivized to build Class A office space? In Hudson Yards, it made a lot more sense to incentivize development given that the area was extremely lacking in economic development and transportation infrastructure. With Penn Station's coming reconstruction, as well as the Gateway Program and Metro-North Penn Station Access, this area will continue to be a thriving transportation hub. So, given the high demand for Class A office space, and the centrality of the Penn Station neighborhood, why does ESD insist that developers have to be incentivized?

Is Tax Increment Financing the best mechanism for financing this project?

Given the uncertainties about long-term revenue projections for the proposed development, I have concerns about whether reliance on Tax Increment Financing to fund large portions of the project is the best financing model. Have other options such as state bonding been fully evaluated? Bonding has traditionally been a safe way to fund transportation infrastructure, has it been fully considered as a funding alternative?

Testimony on the Pennsylvania Station Area Civic and Land Use Project Final Environmental Impact Statement

U.S. Representatives Jerrold Nadler & Carolyn Maloney
Manhattan Borough President Mark Levine
State Senators Brad Hoylman, Robert Jackson, & Liz Krueger
Assembly Member Richard Gottfried
Councilmember Erik Bottcher

July 11, 2022

We appreciate the opportunity to submit comments regarding the General Project Plan for the Pennsylvania Station Area Civic and Land Use Improvement Project.

Our districts, which cover Penn Station and the neighborhoods around it, including the proposed expansion and development areas, have seen enormous growth in residential and commercial development and the associated congestion in our transit system and on our streets over the last two decades. The increase in scale and density on Manhattan's West Side as a result of rezonings and development has led to a dramatic increase in the number of people who live and work around Penn Station and who rely on this transit hub.

The Empire Station Community Advisory Committee Working Group (CACWG) released its initial response to Empire State Development's proposed General Project Plan for Pennsylvania Station and its surrounding area in August of 2021. The report reflected input from two town halls, and a series of issue-focused meetings ranging from transportation to financing to public space, with significant engagement and support from ESD, the Metropolitan Transportation Authority, and Amtrak on technical details of the proposal. We are thankful for the improvements that have been included as a result of the CACWG's work, yet they were not enough.

What follows are key areas that require further consideration. Many of these points are expanded upon in the testimonies submitted by Manhattan Community Boards 4 and 5. As the communities most impacted by Penn Station and its operations, we encourage your thorough review of their testimonies. It is disappointing that we have previously submitted many of these points and that there have not been more changes related to these items that are of grave concern to our communities. We are of the opinion that the GPP should not go forward until these issues are addressed and questions are answered.

Resident Displacement

We are very disappointed that the plan calls for residential displacement and understand that any residents displaced by the Penn Expansion projects on sites 1-3

who income certify would have a right to return to an affordable unit on Site 1A and displaced residents will receive assistance under federal regulations. There are concerns that the compensation received under federal regulations is inadequate.

The GPP must provide for the permanent relocation of residential tenants, within the immediate area, if desired, at the tenant's existing affordability levels. Current rent regulated tenants at risk of displacement should remain rent regulated in any new unit, regardless of whether they are income qualified for an affordable unit. We want to ensure that the residential buildings are the first to be built, to provide an easier transition for the residents who will be displaced. As stated above, there must be affordable and supportive housing provided on Sites 4-8, and displaced residents should have the option to move into those units before their buildings are demolished. If site 1A is not built, residents should be relocated onto another site.

Governance Structure

We are disappointed to see that there is no current plan to create a single entity to coordinate and implement the Penn Station reconstruction, the potential Penn Station expansion, and the above-grade development. As ESD notes in the response to the previous public comments, there are multiple agencies that must approve different aspects of this project. As below ground track work progresses, there must be coordination with regard to the above-ground station improvement. Proposals must have public review. As previously requested numerous times, there should be one agency that leads the implementation of an overall integrated plan with a single project director who coordinates all agencies and developers involved, and collects community input, as was done for the rebuilding of lower Manhattan and the World Trade Center (the Lower Manhattan Development Corporation) with consolidated operation for the station once the improvements are complete.

Community Benefits

The revised November 2021 GPP included many recommendations by the CACWG. We are heartened to see that ESD would set aside space and work with the community to provide homeless services on Sites 1, 2, and/or 3, as well as soliciting and implementing innovative ideas for the provision of social services within or proximate to the Project Area. We hope ESD in partnership with the MTA will consider how the Penn Station redevelopment can provide a drop-in center in Penn Station for homeless New Yorkers to provide everything from supportive and affordable housing resources to job training, addiction services and employment assistance.

It remains that many of the recommendations relating to direct community benefits are not guaranteed and are reliant on the separate approval of the southern expansion alternative for Penn Station. If the southern expansion does not occur, there would be no requirement for a community facility on any of the remaining sites as currently

proposed. Additionally, if development on sites 1-3 does not occur, requirements for housing, notably affordable housing, would also disappear. We hope to see an alternative site proposal for these benefits if the southern expansion does not occur.

Affordable Housing and Density

We appreciate the significant reduction in commercial density from the original plan with consideration of shadows and sightlines. However, there is still too much office space. With commercial vacancy rates at 16%, office occupancy only at 41%, and unused office space at World Trade and Hudson Yards, pre-pandemic, more office space is not what we need. With this level of density, there must be increased residential zoning, including mandatory affordable and supportive housing, on sites 4-8.

The only site currently required to be residential is site 1A, with sites 1B, 4 and 8 allowing the option for residential development. As stated earlier, if an alternative Penn Station capacity project is selected that is not the southern expansion, Site 1A may not see development at all, negating any potential affordable housing gains from this project. A project this large must confront New York's housing crisis head-on, with 1,000 affordable units, including at least 200 supportive units. The remainder of these units, not yet included in the proposal should be located on sites that are not reliant on the southern expansion currently under consideration. These sites must be included in the "piggybank." Affordable housing should be included in the first phase of construction.

Environmental Considerations

Community representatives need to be included in the planning, scheduling, scoping, and execution of any and all construction/development to ensure clear communication and managing quality of life impacts to the existing residents, including to mitigate construction noise.

Net zero requirements for buildings should exclude the possibility of purchasing carbon off-sets.

We are pleased to see that the design guidelines will encourage exceeding LEED Gold standards for building performance and the inclusion of all electric buildings. As the construction timeline for these projects is over the course of decades, design guidelines should seek to encompass technology that may not be readily available yet. With such a great undertaking, there is a real opportunity to exceed the energy conservation requirements of Local Law 97 and achieve a carbon negative Penn District and we hope that this is reflected in subsequent guidance.

Small Business Displacement

Any plan that results in the displacement of small businesses should offer temporary spaces during the construction period and relocation within the new towers for existing small businesses, stores and nonprofits, of similar size to current locations, at current rent levels and terms. It is important we retain the estimated 8,937 jobs attached to these spaces that contribute to the vibrancy of this area.

Public Realm

We are pleased to see the creation of a public realm task force and look forward to the participation of a wide array of stakeholders. Coordinated public realm improvements should be the centerpiece of this plan, and the creation of this task force will help ensure that occurs. Concerns have been raised, which we share, regarding the funding mechanism for the Penn Station Area Public Realm Fund. We agree with Community Board Four's request that a fixed proportion of the PILOTs be guaranteed for public realm funding. Previous testimony on this matter has received the response that specific funding arrangements for the fund have not been arranged. Until there is a set arrangement, we remain concerned over the ability of the fund to provide the promised benefits to the community.

It is critical that all new development be designed with the pedestrian experience at the forefront, such as ensuring large commercial building entrances and unactivated street frontage do not replace any potential vibrant street life. While the November 2021 revision to the GPP reduces maximum lobby widths, it still allows lobbies to take up to 100 feet of avenue facing blocks in multiple locations, and should be further reduced. Station entrances should be required to be large, easy to find and consistent in design to ensure convenient wayfinding for transit users.

New pedestrian space should not become hijacked by other needs. Amenities such as accessible seating and tables should be available in all public spaces. Garbage, loading, utilities and other building operations must be handled inside of the building.

The multiple developments in the area, including the Port Authority Bus Terminal alongside the Penn Station redevelopment project will have significant and compounded impacts on traffic volume, pedestrians, transit, air quality, and noise in the area of the project. These cumulative impacts were not fully taken into account in the FEIS. It is essential that the GPP outline mechanisms to monitor and mitigate the impact of these developments on transit, pedestrians, traffic, and residents.

Train Hall & Madison Square Garden

The gateway to New York, its largest transportation hub, should represent the City. A new grand train hall can be built if Madison Square Garden is moved to a more appropriate site. Of the two options for a train hall on the potential southern expansion block, we have a strong preference for the avenue facing option, rather than a mid block

train hall; however, either option will be off-set from the majority of tracks. We continue to demand that Amtrak, MTA and New Jersey Transit engage the users of Penn Station and the surrounding community in discussions on the renovation of the station and the Penn Station Master Plan. As evidenced by this process, early engagement of key stakeholders leads to improvements.

The impact of MSG operations must be taken into account when planning for the surrounding streets and sidewalks, including customer flow and loading operations. All trucks associated with MSG and its operations, including loading and news vehicles, should be accommodated within the building, and taken off our streets, sidewalks and open spaces. While the MSG site is not included in the current GPP, the impacts of its presence and operations will continue to have an adverse impact on the surrounding streetscape that will be difficult to mitigate. Understanding the challenges of moving MSG, we maintain that moving MSG is in the best long term interests of our city: the ability to provide for a grand above-ground train hall, enable the construction of wider platforms and realigned tracks, allow for track expansion without displacing residents, facilitate ease of public realm improvements, and provide for the addition of through running. We request that a group of stakeholders be convened to explore alternative locations for MSG.

View Corridors/ Shadows

While the FEIS includes improvements to view corridors from the original plan, we agree with the local community about the overall impact on views. ESD should work to minimize shadows and negative impacts from new development on sightlines.

Local Hiring

The FEIS states that currently information related to prevailing wage and community benefits have not been developed and that these are outside the scope of SEQRA. Before finalizing the GPP, Project Labor Agreements should be developed and local and community benefits should be included. A provision to explore local hiring agreements during construction in partnership with the Building Trades Employer Association should be included in the plan and ESD should work towards an agreement with trade unions to establish and fund a pre-apprenticeship program that links economically disadvantaged New Yorkers to union careers in the construction trades, with outreach to the local community. As the Penn Station rebuild and expansion nears completion, a local hiring office should be opened in the vicinity to connect local community members with jobs in the new station as well as in surrounding development sites. This office would collaborate with community-based organizations on outreach to economically disadvantaged job seekers and communities.

Financial Framework

We appreciate ESD and MTA exploring funding strategies to eliminate the City's risk and minimize public risk and ensure timely repayment of any loans or bonds. However, more details regarding how the state will decrease risk to state taxpayers and the City are needed and there are a number of outstanding questions that should be answered before any future votes by the board:

1. How will future PILOT agreements adjust to cost overruns of the project, which are frequent on mega projects?
2. How is ESD calculating potential revenues from the project? Will ESD share these projections and assumptions?
3. What is the total cost to city and state taxpayers of this financing plan, versus the State using conventional borrowing?
4. We understand that it is the intent of ESD to make the city whole for existing property taxes. Where will these funds come from? How does this impact the state's ability to pay back potential bonds? What is the impact on city real estate tax revenues, given the proximity to Hudson Yards? What assumptions are going into making the City "whole" in terms of projections from current tax revenues as well as increased costs for city services?
5. How much does the State intend to give the developer in tax breaks via discounted PILOTs? If the Hudson Yards model is used, there could be \$1 billion or more in tax breaks (see research from the [Schwartz Center for Economic Policy](#)).
6. How long will taxpayers pay interest payments on project bonding before Vornado properties generate any revenue? What steps is ESD taking to mitigate risk to New York State taxpayers? Please explain the funding strategies you are pursuing to minimize public risk and ensure timely repayment of any loans or bonds issued. Please also explain the credit enhancement you foresee undergoing and how the state will financially support that process.
7. How much will the State be paying in credit enhancement mechanisms?
8. What are the risks to the taxpayers if development does not go as planned, and PILOTs come in at lower levels or Vornado decides not to develop certain sites? ([See IBO's research about city payments made in Hudson Yards.](#))
9. How will the sunset period for the PILOTs be determined?
10. Please provide details about how baseline projections have been modeled against potential unfavorable conditions, particularly recessions and cost overruns.
11. With federal funding sources having come online within the last few months, please explain how ESD has factored these potential revenue sources into discussions and considerations about the State's share.

RITCHIE TORRES

THE BRONX

June 29, 2022

Empire State Development Board of Directors
633 Third Avenue, 37th Floor
New York, NY 10017

Dear Empire State Development Board of Directors:

As travel rebounds and our economy recovers from the COVID-19 pandemic, commuters across New York are desperate for a transit hub that meets modern travel demands. On behalf of my constituents in the South Bronx, I ask that you urgently commence work on the reconstruction of Penn Station to revitalize the station and the surrounding neighborhood to deliver a 21st Century Penn Station.

Penn Station is an outdated train station that was meant to service 200,000 travelers. Before the pandemic, the station serviced over 600,000 daily commuters, more than three times the amount of commuters it was intended to service.¹ Due to severe congestion, commuters from across the region face delays, crowds, and a confusing layout that diminish their travel experience, which results in widespread inconveniences and reduces the region's economic activity.

It is paramount to build a Penn Station that meets current travel patterns, accommodates future projections, and brings the transit hub into the modern era. The MTA's upcoming Penn Station Access project will open four new MTA stations in the Bronx through a one-seat train via Metro-North Railroad directly into Penn Station. This will, finally, alleviate the transportation desert in the Bronx by granting tens of thousands of Bronx residents increased access to Penn Station. My constituents will be afforded greater access to jobs, educational opportunities, health care services, and recreational activities through Midtown Manhattan.

The Penn Station Area Civic and Land Use project proposed by the Empire State Development Corporation will not only help address the transportation needs of my constituents, but the plan will help revitalize the surrounding neighborhood in Manhattan. I understand that the plan calls for the building of mixed used developments leading to 1,800 new residential units, with as many as 540 being permanently affordable housing units, and the creation of an estimated 8 acres of new public space. This development will lead to approximately 50,000 new union-construction jobs to help bring New York City towards a greener and transit-oriented system. It is paramount to provide Penn Station with the upgrade it needs as well as improve the surrounding community to be a more open, livable and welcoming.

In the last decade, New York has undergone massive infrastructure upgrades by bringing airports, subways, and commuter rail into the 21st century. Yet, Penn Station, the busiest passenger rail station in the country, remains woefully outdated. I am of the belief that it is imperative to immediately begin transforming Penn Station into a modern transit hub that will efficiently service hundreds of thousands of commuters every day for generations.

Sincerely,



Ritchie Torres
Congressman
New York's 15th Congressional District

¹ "The Case for Penn South", *Regional Plan Association*, <https://rpa.org/work/reports/the-case-for-penn-south>

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June 28, 2022

Testimony: Penn Station Development

Dan Biederman, President
34th Street Partnership
1065 Avenue of the Americas, Suite 2400
New York, NY, 10018

I'm Dan Biederman, President of the 34th Street Partnership. Part of our mission is to steward and strengthen this part of Midtown, helping it reach its fullest economic and cultural potential.

Over the years, one of our biggest roadblocks has been Penn Station.

But thanks to Governor Hochul, we have a rare, once-in-a-lifetime opportunity to improve both the district and station by transforming both into the vital, modern transportation hub we need it to be.

This plan prioritizes substantial improvements to the public realm and its infrastructure -- from widened and heightened corridors to better wayfinding and increased accessibility.

We'll see wider sidewalks, new retail that will activate our streetscapes, and an all around improved commuting experience that will see commuters spend more of their time -- and dollars -- here.

Repairing this transportation hub will mean workers and visitors can more safely and easily navigate the current maze of tunnels and corridors to frequent the thousands of businesses throughout the District without the thought of having to use this antiquated complex looming over them.

The pandemic has dealt a hard blow to Midtown, causing many of our small businesses to go bankrupt or close altogether. A bold investment in our infrastructure at this level is exactly what we need to recover and rebuild.

To us, this is a no-brainer, and there is no time to waste. We can't afford any more delays, so we commend Governor Hochul for fast tracking the construction and development process to deliver improvements to New Yorkers sooner rather than later.

It is time that our city has a modern transportation center made for the future. This is a symbol of our recovery and a declaration that New York is back for good.

We proudly support this project. Midtown's best days still lie ahead thanks to the Governor's Penn Station plan. Thank you.

Ex-Officio

Hon. Bill de Blasio
Phillip Eng

Hon. Scott Stringer
Hon. Jonnel Doris

Vikki Barbero
Hon. Gale Brewer

Molly Hollister
Corey Johnson

Kevin S. Corbett
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June 29th, 2022

To Whom it May Concern,

On behalf of the New York City District Council of Carpenters, I want to express my firm support for the Penn Station General Project Plan.

The New York City & Vicinity District Council of Carpenters represents 20,000 members with distinct crafts, including shop and industrial carpenters, dock builders, millwrights, timbermen, high rise concrete, floor coverers, and more.

We strongly support approving the Pennsylvania Station Area Civic and Land Use Improvement Project with a Project Labor Agreement setting forth terms and conditions for the construction workers renovating Penn Station and developing the surrounding neighborhood.

As you know well, the ambitious plans to renovate and renew Penn Station have been in development for years. After decades of delays and uncertainties, this project is on the cusp of becoming a reality. With your visionary leadership, we can move forward on a reconstruction project that will create thousands of union jobs and dramatically improve public transit in New York City.

The project plan will renovate the existing main station to improve access and circulation creating a safe and easier way for passengers to navigate throughout the concourse. In addition, renovations will incorporate new entrances and access points as well as enhance the surrounding streetscape, address open spaces, and pedestrian, bicycle, and vehicular circulation.

Furthermore, the project will result in the development of ten (10) new buildings. It will allow for up to 1800 residential units with 540 intended to be permanently affordable. 162 permanently affordable units will be developed in one of the new buildings alone. The plan will also generate Class A commercial office, retail, and potentially hotel space as well as improve open public space around the Penn Station neighborhood.

The pandemic has dealt a terrible blow to union workers across our city. Working New Yorkers have been pushed to the brink, with jobs canceled or postponed and the impacts of the pandemic on personal livelihoods affecting union households in every borough. This project will create a substantial number of construction jobs for workers. The General Project Plan should include a requirement that construction work must be performed under a project labor agreement. This would ensure that the construction workers employed on this project receive family sustaining wages as well as medical and retirement benefits.

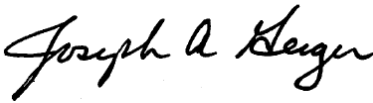
A project labor agreement would afford apprentices an opportunity to hone their skills and advance their careers in the construction industry through the hours of work that would be available on this project.

Performing this work under a project labor agreement will also provide opportunities for city residents to gain entry into the construction industry through our pre-apprentice and apprenticeship programs.

This project has the potential to revitalize and modernize our City, improve our transportation, and create middle class jobs for our members in the process. A project labor agreement with the Building and Construction Trades Council will help this project reach its full potential.

We simply can't wait any longer for Penn Station's reconstruction. I urge you to move forward with this wise investment in our economy, infrastructure and union workers.

Sincerely,

A handwritten signature in black ink that reads "Joseph A. Geiger". The script is fluid and cursive, with the first name "Joseph" being the most prominent part of the signature.

Joseph A. Geiger
Executive Secretary-Treasurer
New York City and Vicinity District Council of Carpenters

June 29, 2022

Directors of the New York State Urban Development Corporation
d/b/a Empire State Development
633 Third Avenue

[Submitted via email to ESD@esd.ny.gov]

**RE: Final Environmental Impact Statement (FEIS) for the Penn Station Civic and Land Use Project
General Project Plan**

To the Directors of Empire State Development:

REBNY thanks the Directors of the Empire State Development (ESD) for the opportunity to provide a strongly favorable statement regarding the Final Environmental Impact Statement (FEIS) for the revised General Project Plan for the Pennsylvania Station Civic and Land Use Project. REBNY also wants to thank ESD and the Governor for the robust public engagement process to date, which includes the creation of the Community Advisory Committee Working Group (CACWG), in which REBNY participates, and the City, State, and Federal agency staff engagement with the CACWG over the last year.

REBNY supports policies that plan for the City's long-term growth and provides opportunities for new housing, jobs, and economic opportunity. REBNY believes this General Project Plan, as proven time and again on other large-scale plans, will provide a catalyst for renewal and growth as we continue to navigate beyond the pandemic. The need for improvements to Penn Station is clear to anyone who has utilized its platforms. A new Penn Station is imperative given the demonstrated rail capacity needs today with the projected population and job growth for the region. According to the RPA, that [work must and should start as soon as possible](#) to take advantage of the temporary reduction in passengers.

But, in the [words of City Planning Director Daniel R. Garodnick](#), a new Penn Station cannot properly serve the City "unless it is paired with a world-class hub of transit-oriented development in the area around Penn Station, and integrates other critical components of the transit infrastructure in the area . . . infrastructure that will enhance rail capacity and intermodal connections."

In recent years, the streetscape has seen some public space improvements by private property owners. However, no cohesive vision unites these blocks in the same manner one finds outside Grand Central, Bryant Park, Union Square and other major transit hubs. A key component of the financing for these improvements would be commercial development by the private sector. Floor area generated by the GPP for this purpose would be subject to a sale, with funds going toward transit improvements, including the needed improvements to intermodal connections and the public

realm. This value capture development model has been utilized in other parts of the city to great effect and has proven to be a way to strengthen transit infrastructure and create good jobs that will play an important role in supporting New York City's long-term economic recovery.

Concerns should be addressed, but not at the cost of sacrificing momentum to the necessary work that must occur. Manhattan has the oldest and largest office market in the country, with currently vacant square footage in near obsolete, older buildings numbering more than the entirety of Boston and Austin's commercial market combined. New York City deserves opportunities to replenish this aging building stock, a critical component of the tax base both in terms of direct funds and indirect positive revenue generated. [New commercial development](#) in this neighborhood will provide added benefits through the financing of the improvements to Penn Station.

The GPP also contemplates up to four sites for residential use. This is a thoughtful provision to address the city's housing crisis. Furthermore, residential units and density adjacent to transit is simply smart planning. The City also has an obligation to provide opportunities for housing, including affordable housing, with good access to transit, jobs, and parks, which this plan will provide for. Therefore, the General Project Plan put forward by the staff at ESD, the MTA, and the Governor will be an critically important and positive force for the future of the City's largest transit hub and its surrounding blocks. The plan will ensure a world-class intermodal transit hub, a well-designed public realm, and a vibrant, mixed-use neighborhood.

It is important that we plan for a better future and to ensure our place as a pre-eminent world class City. This GPP will induce new economic activity and tax revenue, provide much needed homes, and help to improve the quality of life for New Yorkers, commuters and visitors alike. Approval of the FEIS is an important step to advance these shared goals for smart planning and economic development in and around Penn Station.

Thank you for the consideration of these points.

Sincerely,

Basha Gerhards

Senior Vice President of Planning

NEW YORKERS FOR A BETTER PENN PLAN

June 28, 2022

New York State Urban Development Corporation
d/b/a Empire State Development
633 Third Avenue
New York, NY 10017
Attn: Stacey Teran
Via email: empirestation@esd.ny.gov
pennstationarea@esd.ny.gov

RE: Draft Environmental Impact Statement (“DEIS”) for the proposed Empire Station Complex Civic and Land Use Improvement Project (the “Proposed Project”)

New Yorkers for a Better Penn Plan (BPP) respectfully submits the following comments to the New York State Urban Development Corporation d/b/a Empire State Development (“ESD”). These comments are based on the DEIS and the General Project Plan (the “GPP”) for the Proposed Project, which is being considered for approval by ESD pursuant to the New York State Urban Development Corporation Act (the “UDC Act”). Any capitalized terms used herein but not defined shall have the same meaning assigned to them in the GPP.

DEIS Comments

The DEIS is Insufficient due to Incomplete Information about the Proposed Project

As a threshold matter, there is insufficient information to properly prepare the DEIS and assess the environmental impacts of the Proposed Project.

- The scope and location of the transit improvements and potential renovation and expansion of Penn Station (the “Penn Station Renovation”) are currently unknown and will be determined, in the future, by a myriad of agencies, including the Metropolitan Transportation Authority, New Jersey Transit, Amtrak, and/or the Long Island Railroad. MSG’s lease expires in 2023 and its future status is unknown. Therefore, the plan contained in the GPP is premature and its environmental impacts cannot reasonably be determined.
- This separation of the GPP from the redevelopment and expansion of Penn Station, despite the fact that each is clearly integral to and contingent upon the other, is an impermissible segmentation of the environmental impacts of each action, in violation of federal, state, and city environmental regulations.
- Furthermore, ESD staff has proposed numerous material modifications to the Proposed Project and the GPP, but many of those modifications have not been formally considered or incorporated into the GPP by ESD. These modifications will impact all of the DEIS categories. Accordingly, ESD must prepare, and the public must have ample opportunity to review, a Supplemental Environmental Impact Statement that considers all material changes to the GPP.

- The primary justification for the Proposed Project is to fund New York State's share of the Penn Station Renovation costs. Accordingly, the GPP cannot be evaluated unless both the costs of the Penn Station Renovation and the revenues of the Proposed Project have been reasonably determined with sufficient specificity and detail to evaluate the reasonableness of the projections and underlying assumptions. Without adequate information regarding the costs and revenues of the Proposed Project, every other detail in the GPP regarding the Proposed Project is meaningless.

Without knowing the scope and concept plans for the improvement and enlargement of Penn Station, the cost of the work is unknown and unknowable.¹ In addition, as discussed in greater detail below, the GPP does not provide any projections or estimates of the amount of revenues that will be generated to pay the project costs. Moreover, the funding mechanisms for the Proposed Project are also still undecided.² It is impossible to consider the merits of the GPP, or its overall impact on New York City, without understanding the costs and these funding mechanisms and their alternatives. The GPP should remain in draft form and the comment period for the DEIS should remain open until the costs, revenues and funding mechanisms for the Proposed Project are both known and available to and vetted by the public and City officials.³

The DEIS provides "the development of the commercial buildings, and the site-specific public realm and transportation improvements, would be privately funded with developer equity and private financing, but various value-capture structures to potentially offset some of the costs of the improvements are being explored." (S-20). However, there are no stated requirements to unlock the development potential at each site under the GPP, nor are there any details as to when and how public realm and transportation improvements will be constructed or maintained. Based on the hypothetical timeline of the Proposed Project (ahead of the redevelopment of Penn Station itself) and the value of the zoning override to owners of real estate in the Project Area (primarily, if not exclusively, Vornado Realty Trust, "Vornado") versus the cost of the public realm and transportation improvements that may eventually be constructed, the Proposed Project may not generate nearly enough revenue to pay the actual costs of the Penn Station Renovation.

- The GPP contemplates an unprecedented award of floor area to a single developer (Vornado) without describing the process by which the vast majority of this floor area will be generated or the requirements upon which it will be granted. Nor does the GPP describe what (if any) review, input

¹ Almost no financial information has been provided by ESD to the public regarding the cost of the transit improvements to be funded by bonds issued by ESD. An estimate that the Penn Station Renovation will cost New York State between \$8 billion and \$12 billion without any, yet alone a detailed, cost analysis is not sufficient as it provides no meaningful basis for the public or policy makers to evaluate the cost of the project.

² The financial analysis provides no detail on how the revenues to pay for the Penn Station Renovation will be generated other than speculative and hopeful general statements such as "development-related revenues from the GPP sites can potentially serve as NY's share toward the Penn Projects' capital costs" (emphasis added). See Penn Project Funding and Financial Considerations at <https://esd.ny.gov/sites/default/files/Funding-Financing-Considerations-EY-0.pdf>.

³ If ESD's wishful thinking regarding the costs and/or revenues are inaccurate (as is often the case with long-term projects, particularly when the entity proposing the project has prepared the projections), the taxpayers of New York State will be stuck with the bill, which is not adequately explained by the GPP. This risk of insufficient funds to pay all of the project costs is an all-too-common real-world risk as recently occurred with the failure of the Hudson Yards project to generate sufficient revenues to pay the costs of that project.

or approval rights New York City will have regarding the amount of additional floor area awarded or the terms on which such floor area is awarded.

ESD has fast-tracked the public review process for both the GPP and the DEIS without presenting a compelling, reasonable or valid justification as to why it is necessary for the Proposed Project to be approved and commenced before (i) the plans for the Penn Station improvements and expansion have been finalized, (ii) the costs and revenues of the Proposed Project have been determined with sufficient specificity and detail to evaluate the reasonableness of the projections and underlying assumptions, and (iii) the financing mechanism for generating revenues have been determined. The Proposed Project is a massive undertaking that will affect New York City and the surrounding area for generations. ESD must extend its planning process and public review so that all stakeholders have a complete understanding of the Proposed Project and its implications as well as adequate time to prepare and submit comments.

The Alleged Blight Which is the Prerequisite for the GPP has Not Been Substantiated

ESD has not established that there is blight in the Project Area, which is a prerequisite to a zoning override for a Land Use Improvement under the UDC Act.

The Neighborhood Conditions Study drew much of its data from the time of the height of the Covid-19 pandemic when New York City and the Project Area were experiencing an unprecedented low point in all sectors, including loss of business, homes, and health. Yet, even under these extreme circumstances, the Neighborhood Conditions Study found that merely eight percent of the Project Area, only 9 of 61 lots, were in poor or critical condition and that Sites 4-8 were in good condition.

Despite that finding, ESD has declared Sites 4-8 to be blighted. It bases this conclusion primarily on the age of the buildings, as noted in the Neighborhood Conditions Study 97% were considered “old,” meaning constructed before 1973 when Vornado’s One Penn Plaza was constructed. In addition, the study considers the class of the building, not its condition, as evidence of blight. It is unclear where these standards came from or why such conditions by themselves are evidence of blight. The unreasonableness of using these standards to establish blight is evidenced by the fact that the vast majority of New York City would be considered blighted under these standards, including many other buildings in the immediate vicinity that were omitted from the Project Area.⁴ No rational or reasonable reading of the UDC Act can be construed to grant ESD the authority to supersede a city’s zoning laws in an area simply because some of the buildings in the area (which are in good condition) are old and not Class A buildings.

To the extent that the portions of Sites 6, 7, and 8 owned by Vornado are actually underperforming and, therefore, are blighted, that blight is attributable to Vornado’s calculated mismanagement which fostered the conditions that, according to ESD, justify overriding New York City’s zoning and increasing the value of Vornado’s property.⁵

⁴ Inexplicably, a building within the GPP boundaries (11 Penn Plaza, located at the northeast corner of 7th Avenue and 31st Street) was built in the 1920s but has not been designated as blighted and is not identified as a Site for redevelopment under the GPP.

⁵ Vornado has previously intentionally created blight to extract concessions from cities, including New York City and Boston. See, for example, “*Mayor Menino blasts Vornado boss over Filene’s block blight*” at <https://www.bostonherald.com/2010/03/09/mayor-menino-blasts-vornado-boss-over-filenes-block-blight/>. Vornado should not be rewarded for blight that it created.

Study Area

The Study Area should be broadened and ESD should consider the need for, goals, and environmental impact of the Proposed Project in context with the Hudson Yards rezoning and resulting development, the replacement and expansion of the Port Authority Bus Terminal, and the conditions to the east side of Herald and Greeley Squares, including the low-rise buildings on the south side of West 34th Street and the potential development of Macy's.⁶

The Impact of the Covid-19 Pandemic

Data collected during the Covid-19 Pandemic is not an accurate reflection of normal conditions in the Project Area and should not be the basis of the Neighborhood Conditions Study or findings under the UDC Act. In some instances, this data improperly reduces the baseline for determining significant adverse impacts, in others, the data suggests that baseline conditions are worse than they normally are (i.e., crime and homelessness). No rational or reasonable reading of the UDC Act can be construed to grant ESD the authority to supersede and take control a city's zoning laws in an area simply because of a temporary situation in that area caused by a global pandemic. As such, a supplemental analysis is warranted and the DEIS should be revised once new data has been collected. This applies to all chapters in the DEIS as well as the findings required under UDC Act.

The GPP Assumes Unlimited Demand for Class A Office Space

A central assumption of the GPP is that there is an insatiable demand for top of the line, Class A office space in the Penn Station area and elsewhere in Manhattan. This assumption has not been substantiated in the Neighborhood Conditions Study, GPP, or DEIS, all of which fail to account for the office space available and soon to be available in East Midtown and the World Trade Center. Indeed, ESD has relied on a single study in support of its foundational assumption that the demand for Class A offices will return to pre-pandemic levels and increase upon the redevelopment of Penn Station, yet there are a myriad of other studies that suggest the opposite may happen.⁷ At a minimum, the prospective demand for Class A office space is a hotly debated topic after the work- and life-style changes spurred by the Covid pandemic and enabled by technology. The GPP and DEIS must consider alternative assumptions about demand for office space and assess both the viability of the Proposed Project to generate revenue and construct public realm and transportation infrastructure improvements if trends away from Class A office utilization continue or accelerate.

⁶ The CEO of Macy's announced in May of 2021 that the company is committed to building a skyscraper at Herald Square and invest \$235M in the area surrounding the store. See, [Macy's \(M\) Herald Square NYC Skyscraper Is an Expensive Gamble - Bloomberg](#) (last visited February 16, 2022).

⁷ See, e.g., Work from Home is Becoming a Permanent Part of How Jobs Are Done (January 18, 2022) (noting that "data show we can expect 30% to 40% of workdays to be remote, long after the pandemic is over"), available at <https://www.bloomberg.com/news/articles/2022-01-18/work-from-home-is-becoming-a-permanent-part-of-how-jobs-are-done>; Giving up on Five-Day Office Work Week (February 12, 2022) (noting that "... with city house prices sky-high and workers keen to spend more time with their families, a return to pre-pandemic habits looks unlikely."), available at <https://www.bloomberg.com/news/newsletters/2022-02-12/giving-up-on-five-day-office-work-week>.

The GPP Undervalues and Denigrates the Importance of Class B and Class C Office Space in NYC

As discussed in greater detail below, a corollary of the assumed unlimited demand for Class A office space is that there is no demand for Class B and Class C offices (or that businesses that would rent Class B or Class C offices are not as important as those that rent Class A offices), and that Class B and Class C offices should be eliminated from a central business district. This is not the case. The diversity of New York City's economy is as crucial to the success of the city as are high-rent offices. Rather than celebrating this economic diversity, which enables people to start up and sustain businesses that serve a much broader range of customers than businesses renting Class A offices, ESD has equated Class B and Class C offices with blight, a self-serving judgment necessary to override local zoning.

ESD should consider an alternative to the Proposed Project which provide for the preservation and creation of affordable office space and business incubators in this important transit-oriented development.

The GPP's Stated Goal of Revitalizing the Project Area Through Commercial Development Reveals the Proposed Project as an Office Developer-Driven Initiative

The DEIS is clear that the purpose of the GPP is "to create a revitalized, transit-oriented *commercial* district centered around Penn Station" for the purpose of "fulfilling the Empire Station Complex vision ... [and] address[ing] substandard and insanitary conditions in the Project Area." It proposes to do so by erecting "ten new buildings on eight development sites in the Project Area."

The premise of the GPP is that only a uniform district of supertall commercial buildings can accomplish the goal of revitalizing the area around Penn Station, yet there is no basis for the singularity of focus on office towers (even with a pittance of residential units) other than the fact that Vornado believes it will benefit more from the development of office towers than other uses.

Alternatives to the GPP, particularly if coupled with existing or new zoning incentives comparable to those available within the Greater East Midtown neighborhood, are likely to realize the same or greater benefits to the public and the future Penn Station as the Proposed Project without resorting to a drastic override of local zoning.

The DEIS states that "the Lower Density Alternative would meet a number of the Proposed Project's goals and objectives" and "address substandard conditions in the Project Area by facilitating redevelopment to create a cohesive, transit-oriented commercial district" but would introduce less new commercial office use and would not implement all of the public transportation improvements that would occur with the Proposed Project. However, the DEIS does not account for existing mechanisms in the Zoning Resolution that would incentivize such public transportation improvements within the Project Area, as they do throughout the city.

Similarly, the DEIS notes that the Residential Alternative would "address substandard conditions in the Project Area by facilitating redevelopment to create a cohesive, transit-oriented commercial district, foster and support economic growth and tax revenue through the creation of jobs and economic activity, and improve passenger rail and transit facilities and pedestrian circulation, access, and safety with the implementation of transportation and public realm improvements and the creation of new open space" and "would also contribute to enlivening the streetscape within the Project Area by extending the hours of street activity and creating a more vibrant mixed-use neighborhood."

Notwithstanding the DEIS' analysis of the benefits of lower density and additional residential housing, it incorrectly concludes that only a host of Class A megatowers can accomplish the goal of remedying substandard conditions within the Project Area.

The GPP Does Not Address the City's Affordable Housing Crisis

The Proposed Project is going to eliminate approximately 128 units of rent regulated housing. The revised GPP requires the creation of only approximately 542 housing units, of which approximately 162 would be affordable, and would permit (but not require) up to approximately 1,256 more housing units (377 of which, if all such units are built, would be affordable). This dearth of affordable housing in a project of this size is unconscionable and is contrary to New York City's stated policy of creating more affordable housing to address the city's housing crisis. ESD has missed an opportunity to provide a significant number affordable housing units and should rectify this grievous and callous mistake.

The GPP and DEIS Ignore the Recently Created Zoning for Accessibility Initiative

Adopted in 2021, New York City's Zoning for Accessibility ("ZFA") allows, by Authorization of the City Planning Commission, an increase in allowable FAR of up to the lesser of 200,000 square feet or 20% on qualifying sites (within 500 feet of a mass transit station outside of Central Business Districts and within 1500 of mass transit stations within Central Business Districts, including the Project Area) for providing transit station improvements. Crucially, the GPP and DEIS were completed before ZFA was incorporated into the Zoning Resolution and, therefore, they do not take into account the fact that many, if not all, of the public transportation improvements anticipated in the GPP can be accomplished under the existing zoning by a broader number of landowners, not only those directly adjacent to transit stations. The significance of this cannot be overstated. The DEIS fails to consider alternatives that harness ZFA in lieu of the GPP.

ESD is Robbing the City of an Historic Opportunity to Create a Vibrant, Diverse, Transit-Oriented Neighborhood that Serves all New Yorkers

When forced to rebuild lower Manhattan after 9-11, New York City realized that neighborhoods devoted exclusively to office spaces simply do not serve the complex and interrelated interests of New York City's businesses and residents. This truth was also self-evident 20 years after 9-11, at the height of the Covid pandemic, when midtown Manhattan, comprised uniformly of office towers, was a dead zone. Retail businesses could not thrive, or even exist, without residential uses to complement the office use. These negative effects persist. Simply put, the synergy required to maintain a city of this size and caliber demands vibrant mixed-use neighborhoods. The GPP has disregarded the painful lessons of our history and the Proposed Project, if forced upon New York City, might set New Yorkers back for generations when the next disaster occurs. The DEIS fails to consider the vulnerability and unsustainability of a neighborhood comprised almost entirely of office monoliths.

ESD should revamp the GPP completely. The City and State should create a neighborhood in which people live, work, and play. It should embrace MSG and incorporate it into a plan that vitalizes the area. Amazingly, the GPP is virtually silent about the role of MSG in the renovation and enlargement of Penn Station and its centrality to the neighborhood. If, as ESD reminds us, we are planning one of the world's most utilized transit hubs, the opportunity to plan creatively and carefully cannot be squandered.

ESD and the DEIS Should Consider Alternate Funding Mechanisms to Pay for the Renovation of Penn Station

ESD appears to have considered only one primary source for funding Penn Station improvements: Vornado. This is neither prudent nor necessary. The DEIS makes financing an issue, but it – like ESD – fails to explore other means of financing all or a portion of the costs. For example, ESD and the DEIS should study how much income can be generated by a modest surcharge imposed on all of the trips that start or terminate in Penn Station each day. The State could borrow against this income stream in the same manner as it would against PILOT funding.

Chapter 2: Analytical Framework

ESD has unlawfully segmented the Proposed Project to circumvent meaningful environmental review. By treating the GPP for the revitalization of the Project Area as a separate and distinct project from the reconstruction and expansion of Penn Station (which will be done pursuant to an as of yet unpublished general project plan), ESD has divided this single project into two components in order to avoid meaningful environmental review. The GPP and DEIS should be incorporated into a larger GPP and DEIS that includes the Penn Station Renovation in order for ESD and the public to adequately consider the environmental impact of the redevelopment of Penn Station and its surrounding neighborhood. The importance of this cannot be overstated.

The improper segmentation of this project violates state and federal environmental law and is particularly obvious in this instance because, despite the fact that ESD claims Penn Station is not part of the GPP (and therefore not within the scope of environmental review for the Proposed Project), Penn Station itself is the legal justification for the GPP under the UDC Act. ESD cannot maintain that the Proposed Project qualifies as both a Civic Project and a Land Use Improvement (each a threshold designation that enables ESD to override NYC zoning by imposing the GPP) without Penn Station.

In order to qualify as a Civic Project under the UDC Act, ESD must show a need for a civic facility within a project area. Thus, Penn Station must remain part of the Proposed Project. It cannot be removed if the requirements of the UDC Act are to be met and therefore its renovation and expansion must itself be part of the GPP and incorporated into environmental review.

At the same time, in order to qualify as a Land Use Improvement under the UDC Act, ESD must find, based on actual evidence, that the Project Area is substandard or insanitary or in danger of becoming substandard or insanitary, such that it impairs or arrests the sound growth and development of New York City. Putting aside the absurdity of using this urban renewal rationale in midtown Manhattan, this too requires that Penn Station, the only truly substandard component of the Project Area, stay within the GPP and therefore within the scope of the DEIS.

ESD cannot use the need to expand Penn Station as the basis for the Proposed Project and its justification for a zoning override under the UDC Act without describing the expansion in detail in the GPP and studying its environmental impact in the DEIS.

Chapter 3: Land Use, Zoning, and Public Policy

The density proposed in the GPP far exceeds that which would be allowed in the Project Area under current NYC zoning. Many of the public realm and transportation infrastructure improvements identified in the GPP can be accomplished with an increase in FAR without resorting to a zoning override (e.g., via the creation of bonused privately owned public spaces and ZFA). The override is thus unnecessary. It will have a significant and deleterious impact on light and air by locating up to ten supertall buildings within a small

radius of Penn Station. Under zoning, the impact of such increased bulk would be mitigated by the sky exposure plane regulations applicable in the Special Midtown District, but these regulations are senselessly overridden by the GPP. The DEIS failed to consider an alternative that utilizes all reasonably available zoning bonuses and incentives to the extent that such bonuses and incentives result in the public realm and transportation improvements accomplished via the GPP.⁸

Chapter 4: Socioeconomic Conditions

The DEIS states that the “Proposed Project would not result in significant adverse impacts due [to] changes socioeconomic conditions.” This is false. The GPP would eliminate more than one hundred rent stabilized housing units and decimate a host of economically diverse businesses in the Project Area, an obvious adverse change to socioeconomic conditions.

The DEIS fails to adequately assess the impact of the Proposed Project on midmarket offices like those located on Site 6. Businesses located in Class B and Class C office space will be displaced from the Project Area and will not be able to relocate within it because the Class B office space will be replaced with more expensive Class A office space. Moreover, the DEIS fails to account for the fact that existing Class B and Class C offices located within the Project Area benefit from proximity to Penn Station and from lower rents in older building stock. The DEIS summarily concludes that these offices will be able to relocate elsewhere in New York City, but does not substantiate this claim. Moreover, the DEIS does not account for the fact that upon relocating, these businesses will be severed from the transit hub upon which they too depend nor does the DEIS explain why Class B and Class C office tenants should be forced to endure longer commute times than those that can afford to pay more rent.

The DEIS does not adequately address the impact of the Proposed Project on economic diversity. Class B and Class C offices tend to be significantly less expensive per square foot than Class A offices. As a result

⁸ The following is a non-exhaustive list of bonuses available in the Project Area:
Site 2 (M1-6 portion): Plaza, arcade or ZFA bonuses are permitted (43-13, 73-14, or 66-511). In all cases, capped at 20% or 2FAR;

Site 3 (M1-6 portion; no special district): Plaza, arcade or ZFA bonuses are permitted (43-13, 73-14, or 66-511). In all cases, capped at 20% or 2FAR.

Site 3 (C6-4 portion; no special district): Non-residential plaza or arcade, Residential IH, or ZFA (33-13(a), 33-14(a), 23-154, and or 66-511).

Site 4 (C6-4;MiD): 1 FAR for plaza or 2 FAR for Recreational Residential Gym or ZFA as per 81-23, 81-241, and 66-511.

Site 5 (C6-6;MiD): 1 FAR for plaza, 2 FAR for Recreational Residential Gym, and/or 3 FAR for ZFA as per 81-23, 81-241, and 66-511.

Site 6 (C6-6;MiD/Penn Central): 1 FAR for plaza, 2 FAR for Recreational Residential Gym, and/or 3 FAR for ZFA as per 81-23, 81-241, and 66-511 (paired with 81-541).

Site 7 (C6-6;MiD): 1 FAR for plaza, 2 FAR for Recreational Residential Gym, and or 3 FAR for ZFA as per 81-23, 81-241, and 66-511.

Site 7 (C6-6;MiD): 1 FAR for plaza, 2 FAR for Recreational Residential Gym, and or 3 FAR for ZFA as per 81-23, 81-241, and 66-511

of the Proposed Project, all lower cost offices that will be available for small or midmarket businesses will be eradicated, eliminating economic diversity from the business community in the Project Area and from Midtown Manhattan.

Included in the Class B and Class C buildings are ground floor retail and restaurant establishments that cater to middle- and lower- class people who work in the local establishments. The DEIS does not address the fact that replacement by Class A buildings will also displace these lower cost stores and restaurants, which will not be able to afford the rent in the new buildings and will remove appropriately priced retail and restaurants for the middle- and lower- class people who will work in the area.

Diversity, equity and inclusiveness considerations require that offices and retail in the Project Area be made available to all types and sizes of businesses and their customers. The GPP should include requirements for the provision of “affordable” office space (at least by reducing rent to the extent that real estate taxes may not be charged via PILOT) and business incubators.

Chapter 5: Community Facilities and Services

The conclusion in the DEIS that the Proposed Project would not impact community facilities and services is inevitable because there is so little residential development in the Proposed Project.

The GPP should be amended to include a significant number of permanently affordable housing units, consistent with the City’s stated goal of creating affordable housing, which would necessitate a revised community facility and services analysis. The revised GPP marginally increases the number of residential units that may be developed within the Project Area (but are not required) by approximately 1,200 units. At minimum, this change warrants a supplemental EIS so that the impact of those additional units on community facilities and services can be considered.

Chapter 6: Open Space

In addition to creating an unprecedented number of supertall towers within a tight radius of Penn Station, the GPP will eliminate the Privately Owned Public Space that generated FAR bonuses for One Penn Plaza on block 783, which is owned by Vornado, and does not replace it with comparable outdoor space. Even under the amended GPP the Proposed Project does not create useable open space. Instead, it counts as open space the additional square footage of widened sidewalks in the Project Area. This sleight of hand will not result in actual recreational space. Indeed, even using the artificially inflated numbers in the DEIS, the Project area will contain a total worker population of 325,523 and a meager 10.12 acres of passive open space, a ratio of .031 acres of open space per 1,000 workers, which is only 20.6% (!) of the City’s goal of .15 acres per 1,000 workers. As noted, the DEIS also fails to consider the actual influx of users within the Project Area, which will further exacerbate this critical flaw with the GPP.

Rather than relying on the putative open space provided for in the GPP, the DEIS should consider an alternative that includes a public park, perhaps with outdoor public athletic facilities to complement the professional arena at MSG, within the Project Area. For instance, a larger portion of Site 2 could provide much-needed outdoor space instead of an office building, which would greatly reduce the adverse impacts of the Proposed Project.

Chapter 7: Shadows

The DEIS concludes that the towers included in the Proposed Project would cast significant shadows within the Project Area and beyond, including on open space [and light sensitive historic resources.] The revised GPP calls for a reduction in the heights of the towers on Sites 1 and 2. This does very little to mitigate the adverse shadow impact of the Proposed Project caused by the towers on Sites 2 and 3, on the south and southeast side of the Project Area, which will cast the most impactful shadows for the longest duration. The DEIS fails to consider whether, despite the reduction in heights, the Proposed Project still has a significant adverse impact by creating such shadows, and what additional mitigation can be recommended, such as eliminating the building on Site 2 and replacing it with useable, recreational open space and leaving West 31st Street a through street for vehicular access to Penn Station.

Moreover, if the Project Area was expanded, office towers could be spread out over a greater geographic area, which could materially reduce the concentrated solar building eclipse that will darken the Penn Station area every day because of an overconcentration of mega-towers in a small area.

Chapter 8: Historic and Cultural Resources

The DEIS concludes that the GPP will result in significant adverse impacts to visual and historic resources that cannot be mitigated, including the demolition of a number of historic buildings and structures that are either designated or eligible for designation by the City and State.⁹ The DEIS should consider whether the adaptive reuse of these structures and their integration into the Proposed Project can serve to mitigate these impacts.

Chapter 9: Urban Design and Visual Resources

The DEIS fails to adequately describe the daunting visual impact of up to ten towers when viewed from within and outside the Project Area, and the impact at street level. Not recognizing these impacts, the DEIS fails to suggest mitigation measures for such impact. In both ways, the DEIS is deficient.

The massing of the proposed supertall office towers and other buildings will overwhelm the Project Area. Large-footprint office buildings will eliminate land-owners that have smaller holdings as well as a panoply of retailers, including smaller local stores. These impacts, however, can be mitigated. The DEIS and ESD should explore alternatives that would mitigate these impacts.

One approach to mitigate these impacts that should be explored in the DEIS and by ESD, is that the GPP could increase the number of “Sites” within the Project Area that may utilize the incremental floor area generated by the GPP because they may be suitable for redevelopment within the timeframe needed to achieve the GPP’s financial goals, but have not been identified as “Sites” or otherwise programmed in the GPP (i.e., Madison Square Garden on Block 781, leased by the Madison Square Garden Company, and 2

⁹ These resources include the Church of St. John the Baptist, designed by noted architect Napoleon LeBrun and built in 1872; the Gimbels building skybridge, which was designed and built by Richmond Shreve and William Lamb, two architects who later designed the Empire State Building; the Penn Station Service Building, designed by McKim, Mead and White and constructed in 1908, the last relic of the original Penn Station; the Hotel Pennsylvania, designed c. 1919 by William Syme’s Richardson of McKim, Mead & White; and the Stewart Hotel, formerly known as the Hotel Governor Clinton, an Italian Neo-Renaissance building designed by George B. Post & Sons and Murgatroyd & Ogden, opened in 1929.

Penn Plaza on Block 781 and 11 Penn Plaza on Block 807, both owned by Vornado)¹⁰. They could partake in the incremental (above current buildable) gross square footage (“gsf”) permitted in the Project Area (approximately 8.2 million gsf in the GPP and 6.6 million gsf in the November 10, 2021 Staff Proposed Revisions). With an increase in the number of Sites able to access the incremental gsf, the average allocation of floor area per Site would be reduced.¹¹

In addition, by varying the maximum gsf and height to be constructed on each of the Sites and not requiring each Site to be developed with only one building by only one developer, the unwieldly massing of the new buildings would be ameliorated and current owners in the Project Area (notably on Site 6) could contribute to and participate in the rebirth of the Penn Station area.

The visual impact and shadows of the GPP would be reduced and ground floor retail could be more varied. With more Sites, it might be easier to provide for more residential development in predominantly residential buildings or mixed-use buildings, which is essential for the type of balanced live-work neighborhood that thrives in the best of times and is built to survive in the worst of times.

To the extent sidewalk widenings are required in the Design Guidelines to create more open space and improve pedestrian circulation, buildings should be allowed to cantilever over the sidewalk. This would allow for the utilization of floor area at a lower elevation, reducing the height of the new towers slated for development in the Project Area. Where the sidewalks are widened to improve pedestrian circulation, that benefit should not be compromised by outdoor cafes and traffic on 31st and 33rd Streets should not be made worse with a shared street program. (Parking regulations should be examined carefully to enable better movement of vehicles.)

More open space can be created by adding more Sites by freeing up space on Site 2, for example, for a park instead of plaza squeezed between two buildings and by adding more sidewalk widenings and new privately owned public plazas.

With this approach, the Proposed Project would generate the same incremental floor area and revenue to finance the Penn Station Enlargement Project, serving the primary reason for the GPP, but would have less of a negative impact on New York City.

Another more aggressive alternative to mitigate the impacts of the Proposed Project that should be explored in the DEIS and by ESD would expand the GPP’s Project Area.¹² In addition to tapping MSG, 2 Penn Plaza and 11 Penn Plaza as Sites, an expansion of the GPP’s Project Area would achieve – or surpass the State’s financial goal, reduce many of the negative impacts cited in the DEIS, and address many of the concerns of stakeholders.

Under this scenario, the boundaries of the Project Area would be extended to include all of Blocks 809, 807, 806, and possibly Block 754, and the north side of 34th Street from 6th Avenue to 8th Avenue. The

¹⁰ Neither the DEIS nor the GPP addresses the future of Block 755 which contains the Farley Office Building and Moynihan Train Hall.

¹¹ From an average of approximately 1 million gsf per site under the GPP’s 8 Sites to approximately 743,000 per site with 11 Sites, and from an average of approximately 857,300 gsf per site under the Staff Proposed Revisions’ 8 Sites to approximately 624,000 gsf per site with 11 Sites. The Staff Proposed Revisions state that one supertall building is 1.37 mm gsf.

¹² ESD and New York City could collaborate to rezone the Project Area and the surrounding area to achieve these benefits.

amount of floor area that might be able to be distributed without negative environmental impacts may be able to approach the original amount contemplated in the GPP. The number of Sites that could purchase development rights would be greatly increased (e.g., Macy's is already poised to enlarge its building and provide transit improvements), enabling owners of large and small sites to participate in the plan. With more floor area to sell through something like a district improvement fund, there would be more revenue for the State and the City to share. Layers of floor area bonuses, akin to HY and GEM, could provide improvements to the transit system, the public realm, and affordable housing. The number of sites in the Project Area that could be slated for market rate and affordable residential development could be increased, landmark buildings could be retained and their unused development rights sold to developments in the Project Area, independent owners of smaller lots and tenants that are smaller businesses could be retained (as suggested in the first scenario) and contribute to the success of the Project Plan, a larger open space – a park -- on part of Site 2 could be introduced, and a host of creative and socially necessary uses could be introduced into the area.

Either alternative could be the basis for a genuine 21st Century multi-use district, with commercial, sports, entertainment, residential, community facilities, health, and educational and cultural institutions. Such a district would be an exciting, economically sustainable and worthy complement to a new Penn Station Transit hub, one that is more likely to provide the income needed to support New York State's contribution to the Penn Station Renovation.

Chapter 14: Transportation The uncertainty surrounding the Penn Station Renovation makes it impossible for the DEIS to assess the benefit or impact of the vaguely described transportation improvements in the Proposed Project; thus, the DEIS cannot possibly study the reasonably anticipated environmental impacts of the GPP. For instance, the GPP notes that “nearly 600,000 trips are navigated through Penn Station[]” daily, a number that will surely increase significantly upon the completion of the proposed towers. The DEIS does not adequately consider the impact of this influx of additional trips on public transportation to and from Penn Station, nor can it, until more details about the redevelopment of Penn Station are known.

Bus Trips

The failure to truly account for the influx of additional users of Penn Station, as well as employees at the proposed towers who do not travel to/from Penn Station, is a fundamental flaw in the DEIS. The Transportation chapter states that “based on a detailed assignment of project-generated bus trips and in consultation with NYCT, it was determined that none of the express or local bus routes serving the study area would incur 50 or more peak hour riders in a single direction.” (14-6). The chapter continues that because of that determination, “a detailed bus line-haul analysis is not warranted and the Proposed Project is not expected to result in any significant adverse bus line-haul impacts.” This is inconsistent with the DEIS's astonishingly low projection of up to 22,000 new pedestrians in the area, and ignores the fact that not every user of the ten new megatowers will be coming through Penn Station.

Traffic and Pedestrian Impacts

The traffic impacts outlined (and, as explained above, underestimated) in the DEIS are not, according to that document, going to be mitigated. Rather than consider alternatives that would mitigate traffic impacts, the DEIS concludes that the Proposed Project will result in significant adverse impacts at over 70% of intersections within the Project Area.

Similarly, pedestrian impacts are forecast to be significant with a projected increase of 20,000 to 22,000 new pedestrians at the Project Area by 2038, resulting in adverse impacts at 81 percent of crosswalks within the Project Area.

Lastly, but crucially, the DEIS cannot possibly account for the impact of subway elevators and escalators required for universal accessibility until the location, size, and configuration of the revitalized Penn Station are known. That the GPP outlines potential locations for subway elevators is ridiculous considering the location of the platforms that will be served by these elevators remains a mystery. What is certain, however, is that the location of this crucial infrastructure has a significant impact on both pedestrian and traffic flow at street level. This shortcoming illustrates perfectly that ESD has placed the cart before the horse in effecting the Proposed Project before the Penn Station GPP is finalized.

The DEIS should consider an alternative that eliminates shared streets and prohibits sidewalk cafes on 31st and 33rd Streets to mitigate adverse pedestrian and traffic impacts from the Proposed Project.

Chapter 19: Neighborhood Character

It is laughable that the DEIS concludes that the Proposed Project would not result in a significant adverse impact on neighborhood character. The GPP will eliminate housing, displace residents, and eradicate economic diversity within the Project Area. The fact that DEIS concludes that the foregoing does not constitute an adverse impact on neighborhood character belies the validity of the Neighborhood Conditions Study and the entire environmental review for the project.

Moreover, the DEIS is defective in that it does not incorporate MSG into its analysis of neighborhood character, transportation, urban design, or elsewhere. Omitting MSG from a description and analysis of the built environment within the Project Area is an astounding oversight that must be remedied in a Supplemental Environmental Impact Statement.

The Project Area is defined as much by the diversity of its building type as by its economic diversity, all of which will be eradicated by the Proposed Project. The Project Area is characterized by its mixed-use, varied height building stock. The impact of the dramatic change from this longstanding multifaceted urban environment to one that consists of single-use monoliths is not contemplated in the DEIS (see comments on Chapter 9, Urban Design).

Chapter 21: Alternatives

Assumptions In the No Action Alternatives are Incorrect

The DEIS concludes that a No Action Alternative in which Sites 1, 2, 3, 6, and 8 would remain unchanged from existing conditions and as-of-right development would occur on Sites 4, 5, and 7 would not meet the goals and objectives of the Proposed Project. Specifically, the DEIS states that the No Action Alternative would not “improve passenger rail and transit facilities and pedestrian circulation, access, and safety with the implementation of transportation and public realm improvements and the creation of new open space.” (21-2).

The DEIS incorrectly concludes that Sites 6, 7, and 8 would remain unchanged under the existing conditions. Most of the lots on Site 6 are underdeveloped; therefore, each of them individually and an assemblage or some or all of them are potential development sites. Site 8 was revealed to be a potential development site

when Vornado applied for and received a special permit authorizing a 3.0 FAR bonus at the site (in conjunction with Site 7) for proposed improvements to the subway. Thus, both Sites 7 and 8 are evidently potential redevelopment sites. Vornado did not construct the proposed improvements approved by the special permit in 2010. Site 7, which is overbuilt, is currently undergoing a transformation.

The portions of Sites 4 and 5 that do not include public open spaces associated with 1 Penn Plaza are underdeveloped and, with ZFA now on the books, are enabled to redevelop to a higher FAR while providing improvements to accessibility of the transit stations below.

The DEIS should consider alternatives to the GPP that contemplate the utilization of ZFA and other special permits or authorizations.

Crucially, the DEIS fails to consider that all of the Sites in the Project Area could utilize ZFA, which was enacted after the GPP and DEIS were finalized, as well as a host of other zoning bonuses, to achieve a higher FAR resulting in the construction of many, if not all, of the transit improvements contemplated in the GPP.¹³

The DEIS should consider a Lower Density Alternative that omits Site 6

The DEIS should also consider an additional Lower Density Alternative that omits Site 6 from the Proposed Project. Omitting Site 6 from the Project Area will lessen the adverse impact of the Proposed Project on displaced businesses and the Empire State Building. Alternatively, the DEIS should consider a scenario in which sites not controlled by Vornado can be developed independently as part of the GPP. Doing so is an appropriate protection of property owners within the Project Area and would serve to foster architectural and economic diversity within the Proposed Project, mitigating many of the adverse impacts noted above. This scenario should include incentives for maintaining affordable office space (including Class B and Class C offices).

As discussed above, Site 6, and other Sites, are home to a significant number of Class B and Class C offices that will be permanently displaced from the Project Area and may be unable to relocate in New York City.

With respect to architectural resources, the DEIS notes that impact of shadows from development on or partially on Site 6 and other Sites will adversely affect the Penn South Apartment Complex bounded by West 29th and West 23rd Streets and Eighth and Ninth Avenues; the U.S. General Post Office, on the block bounded by West 31st and West 33rd Streets and Eighth and Ninth Avenues; and the Former Greenwich Savings Bank located at 1352 Broadway (outside of the Project Area).

Crucially, the adverse impacts related to development on or partially on Site 6 are unnecessary to effect the Proposed Project because the public transit improvements on Site 6 are or can be achieved under ZFA, thus,

¹³ Indeed, the DEIS notes other areas in Manhattan where transit-oriented development has been supported by the Zoning Resolution, including the zoning surrounding Grand Central Terminal, which is served by five subway lines and substantial commuter rail service (allows for base FARs of between 12 and 15, and up to 30 FAR through improvements to the mass transit network, transfer of unused landmark development rights, and other mechanisms); the Times Square area, which is served by 12 subway lines and the Port Authority Bus Terminal (permits FARs of between 10 and 15, with transit-related bonuses allowing for densities of up to 18 FAR); and the Fulton Street Transit Center, which is served by 10 subway lines and the PATH trains (maximum FARs ranging from 10 to 21.6 (with bonuses)).

a lower density alternative that omits Site 6 from the Proposed Project, or reduces the increase in FAR and places a height limitation on that site, will serve the goals of the GPP without adding to the environmental impact of the Proposed Project.

The DEIS should consider an alternative that eliminates accessory parking from Sites 6, 7, and 8

The DEIS should also consider whether and to what extent eliminating accessory parking from the planned developments on Sites 6, 7, and 8 will reduce the adverse impact of the Proposed Project. The Proposed Project is lauded as a transit-oriented development centered around Penn Station but anticipates accessory parking on Sites 6, 7, and 8. Considering the purpose of this project, the DEIS should consider an alternative that includes no accessory parking. Eliminating parking serves both environmental and cost-savings goals and can facilitate further expansion of the subterranean public transportation improvements at these sites. Moreover, the number of spaces belie any claim that they are a meaningful accessory to the proposed offices as there are far too few to accommodate the projected number of office workers.

The DEIS should consider alternatives that increases the number of participating development sites within the Project Area and expand the boundaries of the Project Area

As discussed in greater detail above, the DEIS should explore an alternative GPP with an increased number of “Sites” within the Project Area that may utilize the incremental floor area generated by the Proposed Project including Madison Square Garden on Block 781, leased by the Madison Square Garden Company, and 2 Penn Plaza on Block 781 and 11 Penn Plaza on Block 807, both owned by Vornado. These sites could participate in the incremental gsf permitted in the Project Area, potentially reducing the average allocation of floor area per site. (See footnote 11, above.) This would generate the same incremental floor area and revenue to finance the Penn Station Enlargement Project as the current GPP, but would be far less impactful on New York City.

The DEIS should also consider an alternative that expands the Project Area. In this scenario, in addition to including MSG, 2 Penn Plaza and 11 Penn Plaza as development sites, an expansion of the Project Area would achieve – or surpass the State’s financial goal, reduce many of the negative impacts cited in the DEIS, and address many of the concerns of stakeholders. Under this scenario, the boundaries of the Project Area would be extended to include all of Blocks 809, 807 and 806, the north side of 34th Street from 6th Avenue to 8th Avenue (including Macy’s), Herald Square and Greeley Square, as discussed above.

Thank you for your consideration of our comments.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Diana S. Gonzalez", with a stylized, cursive script.

Diana S. Gonzalez
Executive Director
New Yorkers for a Better Penn Plan



BUILDING & CONSTRUCTION TRADES COUNCIL OF GREATER NEW YORK

GARY LaBARBERA
PRESIDENT

AFFILIATED WITH THE
BUILDING CONSTRUCTION TRADES DEPARTMENT
OF WASHINGTON, DC
—
BUILDING AND CONSTRUCTION TRADES COUNCIL
OF NEW YORK STATE
—
AMERICAN FEDERATION OF LABOR OF CONGRESS
OF INDUSTRIAL ORGANIZATION

TESTIMONY

On behalf

BUILDING AND CONSTRUCTION TRADES COUNCIL OF GREATER NEW YORK AND VICINITY

In Support of the Pennsylvania Station Area Civic and Land Use Improvement Project
June 30, 2022

I am Gary LaBarbera, President of the Building and Construction Trades Council of Greater New York & Vicinity. Thank you for the opportunity to submit this testimony in support of the Pennsylvania Station Area Civic and Land Use Improvement Project.

The Building and Construction Trades Council is an organization of local building and construction trade unions that are affiliated with 15 International Unions in the North American Building Trades Union. Our local union affiliates represent approximately 100,000 union construction workers. The Building Trades mission is to raise the standard of living for all workers, to advocate for safe work conditions and to collectively advance working conditions for our affiliates' members, as well as all workers in New York City.

The Pennsylvania Station Project is a comprehensive redevelopment initiative that could revitalize the entire area around Penn Station. The renovation of the existing main station will improve access by adding 18 new escalators and 11 new elevators to platforms as well as more entrances and exits. These improvements will facilitate the goal of doubling the circulation for commuters and travelers, double the amount of floor space on the main concourse, and provide for higher ceilings that will improve the experience of commuters and visitors. These renovations will increase safety and security, make it easier for passengers to navigate through the station and connect to their destinations, and consolidate support functions. It will incorporate new entrances and access points as well as enhance the surrounding streetscape, address open spaces, and pedestrian, bicycle, and vehicular circulation.

Furthermore, the project will result in the development of ten (10) new buildings. It will allow for up to 1800 residential units with 540 intended to be permanently affordable. 162 permanently affordable units will be developed in one of the new buildings alone. The plan will also generate Class A commercial office, retail, and potentially hotel space as well as improve open public space around the Penn Station neighborhood.

In addition to improving transit access and circulation, creating new residential, commercial, and public space, this project will create a substantial number of construction jobs for workers. The General Project Plan should include a requirement that construction work must be performed under a project labor agreement. This would ensure that the construction workers

employed on this project receive family sustaining wages as well as medical and retirement benefits. It would also provide opportunities for individuals in apprenticeship programs to develop their skills through work experience in the industry. Additionally, performing construction work under a project labor agreement would provide opportunities to New Yorkers of all walks of life through our Apprenticeship Readiness Collective. These pre-apprentice programs – The Edward J. Malloy Initiative for Construction Skills, Helmets to Hardhats, Nontraditional Employment for Women, and Pathways 2 Apprenticeship - recruit in different demographic areas of New York City and provide entry level access to work in the construction industry, training, and preparation for a career and a future in construction work. A project labor agreement would ensure that the potential benefits of this project are fully realized.

With a Project Labor Agreement with the Building and Construction Trades Council, this project has the ability to provide real opportunity to New Yorkers through the creation of construction jobs with union wages and benefits. The Building and Construction Trades Council of Greater New York and Vicinity supports the use of a Project Labor Agreement for the Pennsylvania Station Area Project and projects like it. This project has the potential to revitalize and modernize our City, improve our transportation, and create middle class jobs for our members in the process. A project labor agreement with the Building and Construction Trades Council will help this project reach its full potential.

We thank you again for this opportunity to testify in support of the use of a project labor agreement for this Project.



Testimony to Meeting of the Directors of the New York State Urban Development Corporation d/b/a Empire State Development

June 30, 2022

Reinvent Albany advocates for transparent and accountable government. While we appreciate the ability to submit written testimony for this Board meeting, the public should be given additional opportunities to comment on this project before it is approved, including on its finances.

The Penn Station Redevelopment project under consideration by the Directors is important to the City and the State. Reinvent Albany supports improving Penn Station and New York's major transit hubs to better serve transit riders.

Unfortunately, Empire State Development refuses to release basic information to Legislators and the public about the Penn Station deal's financing. The newly-released Final Environmental Impact Statement notes that "Project financing is not part of the EIS scope" and further states that "the terms of potential payment agreements or other financing options are yet to be determined."

Does ESD not know how it intends to fund the project? Why can't ESD make it clear why it wants to fund state transportation infrastructure using an opaque scheme that essentially steers future New York City property tax revenue to the State via a Payments in Lieu of Taxes (PILOT) deal and puts all the risk on taxpayers?

Further, this deal could result in a real estate firm and [big political donor](#), Vornado, getting a tax break worth a billion or more dollars. It is ironic that a state public authority – an entity that exists to act independently of politics – is securing subsidies for a major donor to the Governor.

There are many unanswered questions about Penn Station Development finances that should be answered before the Directors approve any aspect of the project:

- 1. What is the logic of this financing approach given that there are frequently cost overruns on mega projects?** PILOTs won't be able to adjust to cost overruns, nor will the real estate market, meaning the State will have to pay for any increases in costs. An [RFP for the design was only issued by the MTA on June](#)

[9th](#), and costs can increase as designs change. The FEIS now lists Penn Station reconstruction costs at \$7 to \$9 billion, an increase from the announcement made by Governor Hochul last fall when it ranged from \$6 to \$7 billion. The MTA's East Side Access, which ballooned to an unfathomable \$11 billion cost, is a cautionary tale for mega projects.

2. **What is the total cost to city and state taxpayers of this financing scheme, versus the State using conventional borrowing?**
3. **What is the impact on city real estate tax revenues, given the proximity to Hudson Yards?** The Penn Station area does not exist in a vacuum, but rather in the center of midtown Manhattan.
4. **Exactly how much is the development expected to raise in support of the renovation project?** It is a gamble to base revenues off of development that is speculative and would occur over multiple decades.
5. **How much does the State intend to give the developer in tax breaks via discounted PILOTs?** If the Hudson Yards model is used, there could be \$1 billion or more in tax breaks (see [research from the Schwartz Center for Economic Policy](#)).
6. **How long will taxpayers pay interest payments on project bonding before Vornado properties generate any revenue?** PILOTs don't begin to generate revenue until the completion of construction, which ranges from 2028 to 2044 for all the buildings (see page 12 of [IBO's report](#) for details).
7. **How much will the State be paying in credit enhancement mechanisms?** Because borrowing based on PILOTs is considered risky by bond raters, the State must guarantee the bonds.
8. **What are the risks to the taxpayers if development does not go as planned,** and Payments in Lieu of Taxes (PILOTs) come in at lower levels? (See [IBO's research](#) about city payments made in Hudson Yards.) Given that subway ridership remains at 60% of 2019 levels and the return to office is slow, there are concerns about the resiliency of the real estate market in the post-COVID world.
9. **What assumptions are going into making the City "whole" in terms of projections from current tax revenues as well as increased costs for city services?**
10. **As part of this redevelopment project, why is the State not proposing to end Madison Square Garden's \$44 million annual tax abatement,** which has cost New York City over \$875 million in lost tax revenue since 1982 (See [IBO's testimony](#) to the State Senate)?

Approving the Penn Redevelopment would be Irresponsible

NYS taxpayers will be on the hook for at least a portion of bond payments from PILOTs and possibly much, much more if the development doesn't go as planned decades from now. It would be irresponsible for ESD Directors to sign off on any aspect of this project without a clear financing plan and understanding of the PILOT agreements.

The State needs to go back to the drawing board and fund this project through traditional, transparent funding. Why can't we just fund transit projects with traditional capital grants from the State or City? Then there would then be real honesty about exactly who is paying and who is benefitting.

Thank you for the opportunity to submit written testimony. Please send any questions to Elizabeth Marcello at [elizabeth \[at\] reinventalbany.org](mailto:elizabeth@reinventalbany.org).



Comments on Final Environmental Impact Statement Penn Station Area Civic and Land Use Improvement Project

July 8, 2022

Reinvent Albany advocates for transparent and accountable New York government. We are a leading voice for sensible and transparent economic development subsidies and for more accountable public authorities, including Empire State Development (ESD).

The Penn Station Redevelopment project, led by ESD, is important to the City and the State. Reinvent Albany supports improving Penn Station and New York's major transit hubs to better serve transit riders.

Unfortunately, ESD refuses to release basic information to Legislators and the public about the Penn Station deal's financing. The newly-released Final Environmental Impact Statement notes that "Project financing is not part of the EIS scope" and further states that "the terms of potential payment agreements or other financing options are yet to be determined."

Does ESD not know how it intends to fund the project? Why can't ESD make it clear why it wants to fund state transportation infrastructure using an opaque scheme that essentially steers future New York City property tax revenue to the State via a Payments in Lieu of Taxes (PILOT) deal and puts all the risk on taxpayers?

Further, this deal could result in a real estate firm and [big political donor](#), Vornado, getting a tax break worth a billion or more dollars. It is ironic that a state public authority – an entity that exists to act independently of politics – is securing subsidies for a major donor to the Governor.

There are many unanswered questions about Penn Station Development finances that should be answered before this project moves forward:

1. **What is the logic of this financing approach given that there are frequently cost overruns on mega projects?** PILOTs won't be able to adjust to cost overruns, nor will the real estate market, meaning the State will have to pay for any increases in costs. An [RFP for the design was only issued by the MTA on June 9th](#), and costs can increase as designs change. The FEIS now lists Penn Station

reconstruction costs at \$7 to \$9 billion, an increase from the announcement made by Governor Hochul last fall when it ranged from \$6 to \$7 billion. The MTA's East Side Access, which ballooned to an unfathomable \$11 billion cost, is a cautionary tale for mega projects.

2. **What is the total cost to city and state taxpayers of this financing scheme, versus the State using conventional borrowing?**
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10. **As part of this redevelopment project, why is the State not proposing to end Madison Square Garden's \$44 million annual tax abatement, which has cost New York City over \$875 million in lost tax revenue since 1982** (See [IBO's testimony](#) to the State Senate)?

The Penn Redevelopment Project Should Not Advance

NYS taxpayers will be on the hook for at least a portion of bond payments from PILOTs and possibly much, much more if the development doesn't go as planned decades from now. It would be irresponsible for this project to move forward without a clear financing plan and understanding of the PILOT agreements.

The State needs to go back to the drawing board and fund this project through traditional, transparent funding. Why can't we just fund transit projects with traditional capital grants from the State or City? Then there would be real honesty about exactly who is paying and who is benefitting.

Thank you for the opportunity to provide comments. Should you have any questions, please contact Elizabeth Marcello at [elizabeth \[at\] reinventalbany.org](mailto:elizabeth@reinventalbany.org).

From: petra.messick
Sent: Wednesday, June 29, 2022 2:10 PM
To: esd.sm.ESD
Cc: Santana, Angel (ESD)
Subject: Amtrak Comments on the Penn Station Area General Project Plan

To whom it may concern:

Amtrak encourages the ESD Board to approve distribution of the Final Environmental Impact Statement for the Penn Station Area General Project Plan.

Amtrak was pleased to participate in more than a dozen meetings in 2021 with the Community Advisory Committee Working Group and appreciates ESD's commitment to a thoughtful and robust community engagement process as the GPP has advanced. Our project team benefitted from these opportunities to present information to and hear feedback from the community as we work to advance a number of projects at Penn Station, including Penn Station Reconstruction and Penn Station Expansion – a key element of the Gateway Program. These projects and others being developed with our partners will transform the Penn Station experience for a whole new generation of rail travel.

The Gateway Program – Penn Expansion, in particular – stands to benefit from a level of certainty about potential future development in an overbuild should a southern station expansion be selected through our analysis. While we look forward to greater clarity about how the revenues of the GPP will be applied, we support the approval of the FEIS and look forward to next steps on the project.

Respectfully,

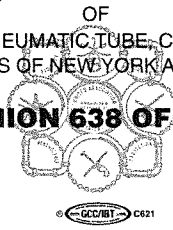
Petra Todorovich Messick, PMP
Senior Director of Portfolio Management, Gateway Program
Amtrak | 383 West 31st Street | New York, NY 10001



Enterprise Association of Steamfitters Local Union 638 U.A.

OF
STEAM, HOT WATER, HYDRAULIC, SPRINKLER, PNEUMATIC TUBE, COMPRESSED AIR, ICE MACHINE, AIR CONDITIONING
AND GENERAL PIPE FITTERS OF NEW YORK AND LONG ISLAND, A.F.L.-C.I.O.

STEAMFITTERS LOCAL UNION 638 OF THE UNITED ASSOCIATION



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TESTIMONY

On behalf

Enterprise Association Steamfitters Local 638

In Support of the Pennsylvania Station Area Civic and Land Use Improvement Project

July 28, 2022

I am Daniel Mulligan, Business Manager of Steamfitters Local 638, a Building Trades union that represents nearly 9,400 members working in the pipe trades and heating, ventilation and air conditioning industry. Our union's mission is to provide the highest quality training and education to our members and ensure that they have access to family-sustaining wages and top-tier benefits commensurate with their skill and professionalism.

Redevelopment of and around Pennsylvania Station represents a tremendous opportunity to enhance and modernize the transportation infrastructure of the station and the surrounding neighborhood. As the City has grown, and commuters and visitors have returned to our City following the pandemic, the need to expand Penn Station has once again become apparent. Increased access to outdoor spaces, new bike, pedestrian and vehicle lanes and the development of 10 new buildings will beautify the neighborhood and bring millions of dollars in economic development to the surrounding area. These new buildings will bring more business activity to the area and plans for residential buildings will include 540 permanently affordable units and a total of 1800 new housing units, at a time when affordability and the availability of housing is a critical issue to New Yorkers.

To derive the full benefit of this landmark project, the General Project Plan should include the requirement that construction work on this project be done under a Project Labor Agreement (PLA). PLAs ensure that workers are paid family sustaining wages and have access to the highest quality retirement and medical benefits available, which unions like Local 638 provide. They also ensure that projects are completed on time, within budget and with the highest level of quality.

Using a union workforce on this job benefits our members, who rely on new construction projects such as this to continue their careers and maintain their benefits, but it also benefits the community more broadly, by allowing us to bring new apprentices into our training program and give them access to middle class careers. As we train the next generation of construction worker, we strive to ensure that our union and workforce represents the diversity of greater New York City, which is why we partner with pre-apprenticeship and workforce readiness programs like Construction Skills, Nontraditional

Employment for Women, Helmets to Hardhats and other programs that provide opportunities for women, people of color, veterans, and other historically underserved communities.

Signing a PLA with the Building and Construction Trades Council of Greater New York and Vicinity (BCTC) will benefit our members, as well as the nearly 100,000 construction workers that make up the membership of the 15 affiliated unions that form the BCTC. This Penn Station redevelopment plan has the promise to be the next in a long line of important construction projects to shape the landscape and character of our City. It is vital that a skilled and unionized construction workforce be at the center of this plan to ensure that the true promise of its economic development is realized and shared with the broader community. Investments in transportation and infrastructure such as this produce economic multipliers that benefit numerous industries and communities, making this expansion necessary for the City to modernize and meet the demands of the 21st century.

Thank you for this opportunity to testify in support of the project and the need for the use of a PLA for all phases of this plan.



PARTNERSHIP
for New York City

**Comments from the Partnership for New York City
Empire State Development Directors on the
Pennsylvania Station Area Civic and Land Use Improvement Project**

June 29, 2022

The Partnership for New York City supports the proposed Pennsylvania Station Area Civic and Land Use Improvement Project, which is vital to fund the renovation and expansion of Penn Station, promising millions square feet of residential, commercial and retail space to provide housing and business uses. Access to mass transit is a major factor in business location decisions, impacting commercial real estate demand and shaping job growth patterns. The Project will transform the surrounding areas and support economic growth as well as generate revenue to help fund transit and public space improvements. A modern transit hub that can support commercial activity, offer innovative live/work opportunities and connect people to jobs will boost economic recovery and ensure an attractive location to work, live, visit and invest.



229 West 135th Street - Front 1 - New York, NY 10030 - 212 926 2550

June 29, 2022

To Whom It May Concern

The Harlem Arts Alliance (HAA) is an arts service membership organization with 300+ cultural organizations, cultural practitioners and educational institutions of high learning: (CCNY, Columbia University, Et. al.). Over the past 20 years HAA has participated with City, State, and private developers to create strategies that improve the quality of life in Upper Manhattan by creating jobs and increasing community wealth through retail services, business services and cultural tourism.

On behalf of HAA'S Board of Directors we reviewed the proposed Penn Station Area Redevelopment Project Plan and support the revised draft which proposes a new expanded vision and vitality to the Penn Station Corridor; offering jobs, economic vitality MWBE opportunities, affordable housing, sustainable construction, environmentally built transportation enhancement and more.

The new Penn Station Development Hub, like the immortal phoenix bird flying out of the ashes, will regenerate itself with multiple enhancements for New York City local and international business, providing sustainable and inclusive opportunities as a great place to work, visit and travel. ESD working with the appropriate State, City and Private Enterprises will re-energize the new Penn Station.

We support the Revised ESD Penn Station submission. New York deserves the best.

Sincerely,

A handwritten signature in dark ink that reads "Voza Rivers".

Voza Rivers, Chairman

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June 30, 2022

New York Building Congress Testimony at a hearing of the Empire State Development regarding the Pennsylvania Station Area Redevelopment Project's General Project Plan

The New York Building Congress strongly supports the reconstruction of Penn Station and the comprehensive revitalization of its surrounding community. New York deserves a true, modern, state-of-the-art transportation hub in the heart of our central business district that meets the same New York City standard of excellence seen just a few blocks away in Grand Central Terminal.

Reimagining Penn station and rebuilding it to serve New Yorkers and visitors alike, with soaring ceilings that bring in natural light, grand entrances that safely move people, and modern amenities are part of this vision — and must be done now.

This vital development will connect Herald Square to Penn Station with improved open spaces for the community, 1,800 much-needed housing units, and improved retail and dining spaces to provide residents, workers, and commuters with an improved public experience. This project is an essential step towards transforming Midtown Manhattan into a true 24/7 community.

The proposal doubles Penn Station's circulation space. It is in the best interest of all New Yorkers to improve low-carbon transit usage to help combat the climate crisis. As the busiest transportation hub in the Western Hemisphere, Penn Station is a main artery for office workers, commuters, and the general public heading to Manhattan. The economic growth and vitality of the neighborhood relies on the advancement of this extraordinary public-private partnership.

We applaud the leadership of Governor Hochul, MTA CEO Janno Lieber, and Empire State Development President & CEO Hope Knight. Their determination to listen to the people of New York City, our elected officials, and transportation experts have presented us with a once-in-a-generation opportunity to bring our city into the 21st century.

Building is one of the best ways to get out of an economic crisis. At an estimated cost of nearly \$7 billion dollars, the Penn Station Area Redevelopment plan has the potential to employ nearly 50,000 building professionals over the next five years. These jobs provide a pathway into the middle class for New York families.

In closing, we ask that the ESD Board adopt the GPP and create a world-class transportation hub and a revitalized community.

Thank you for your consideration of this transformative project.

Very truly yours,

Carlo A. Scissura, Esq.
President & CEO

Eugene Sinigalliano

Residential Advisor - Empire State Development's
Community Advisory Committee Working Group

251 West 30th. Street, Apt 14E

New York, NY 10001

Email: gene@ultrasoundampsales.com – Phone: 646-7096-1367

July 11, 2022

Hope Knight
President and Chief Executive Officer
Empire State Development
625 Broadway
Albany, NY 12207

Board of Directors:
Kevin S. Law,
Hope Knight
Hilda Rosario Escher,
Sherry A. Glied,
Adrienne A. Harris,
Michael K. Rozen,
Robert M. Simpson,
John Wang,

Re: Pennsylvania Station Area Civic and Land Use Improvement Project - Comments to the Final
Environmental Impact Statement (FEIS)

Dear Ms. Knight and Directors,

As the only “at risk of displacement” resident Empire State Development (ESD) allowed to be a member of their Penn Station Community Advisor Committee Working Group (CACWG), I have reviewed the Final Environmental Impact Statement (FEIS). I do not see any major changes from the draft environmental impact statement that changes the horrible consequences this fatally flawed, outdated, special interested driven and potentially illegally segmented General Project Plan will have on my neighborhood, our residents, our businesses our community and NY taxpayers.

I continue to strongly oppose the GPP as specifically documented in my detailed submission to ESD on February 16th 2022. My detailed questions and objections from my submission have still not been addressed or answered by ESD or the FEIS. There is no doubt that Penn Station needs to be improved and modernized but NYS, NYC and its citizens deserve a far better Penn Station plan that puts transit first and foremost. ESD's GPP continues to be focused on a massive office real estate development and does not coordinate, phase or properly align transit improvements with real estate development which is a critical flaw with dire consequences. The GPP does not have direct control of Penn Station

improvement because MTA is going to design their own plan which is not in the GPP. Penn Station expansion is being planned by the other railroads and any expansion plan must undergo its own Federal NEPA review process. Again, with no control in ESD's GPP. Bottom line is the Penn Station GPP and its land use action puts the cart before the horse which does not serve the public good. The two linked but segmented proposals not included in the GPP – MTA's Penn Reconstruction and any Penn Expansion Alternative must both be fully planned, submitted and a decision made by NEPA before any land use project makes sense, can contain realistic planning or should even be considered.

It is clear that ESD's revised GPP not only fails to coordinate, phase or properly align transit improvements with real estate development with their segmented plan, it may also jeopardize ESD's ability to obtain federal permits and funding. Because ESD's GPP puts the cart before the horse which may allow historic buildings to be demolished before completing the required NHPA review the project plan adds additional irresponsible risk to NY taxpayers because of possible federal funding loss. This is unacceptable!

ESD's Penn GPP just has too many problems, inconsistencies, unanswered questions, lack of accurate up to date financials, lack of guarantees from developers, massive risk to NY taxpayers and finally it has not even considered the current inflation rate that is 8.6% for the 12 months ended May 2022. This is the highest inflation rate since 1982 and if it continues will add tremendous additional cost to the project. This is unacceptable on every level for a project of this size and cost. One of the biggest financing flaws in ESD's GPP is their blinded dependency on the building of all these massive sky towers. There must be up to date and detailed financial information including accurate cost of the project. None of this has been completed because of the flawed segmentation and backward phasing.

The NYC Planning Commission in their 01/27/2022 letter to ESD said this:

“ However, the Commission cannot recommend its full support for the GPP at this current stage of the plan. There continue to be unanswered questions related to the financing, transit improvements and public realm improvements that must be addressed in a modified GPP. ”

At the request of State Senator Brad Hoylman, Reinvent Albany, former City Councilmember Ben Kallos, BetaNYC, Manhattan Community Boards 4 and 5, Common Cause NY, and the Tri-State Transportation Campaign, the New York City Independent Budget Office (IBO) examined ESD's proposed General Project Plan for Penn Station and other related documents.

The New York City Independent Budget Office's report summary states:

1. *“IBO found that the plan, which is to be revised and presented to an ESD board vote in coming months, lacks many of the basic and important details needed for a robust analysis, and leaves many open questions about the impact on state and city finances.” “While few would argue about the need for improvements at Penn Station, many key questions remain unanswered under the state's current proposal, particularly around the construction cost, timing, financing, and risk management of the projects. This information is critical for the plan to be evaluated in terms of both potential risks and benefits to the state and the city—a necessary step before moving ahead with a plan that could impact city and state taxpayers for years to come.”*

Among the NYC IBO's findings are the following:

- *"The total cost of the Penn Station improvement project and, therefore, the revenue needed to cover those costs remains unclear. ESD estimates the total public cost of the transit improvements, including the Hudson River Tunnel, to be \$30 billion to \$40 billion, with costs shared by the federal government, New York State, and New Jersey. New York State estimates its share of the cost from \$8 billion to \$10 billion, and thus far has authorized \$1.3 billion in capital funding for the project. Bond or other debt financing is expected to cover most of the remainder, although ESD has yet to provide details on how exactly this debt would be structured.*
- *ESD would use value capture financing, where payments in lieu of property taxes (PILOTs) and fees from the development sites are used repay the debt funding the station project costs. Land owned by the state is exempt from city property taxes, and as a result, property owners would pay PILOTs to ESD, not property taxes to the city. The state has not released any revenue projections for these PILOTs, nor has it specified how the PILOTs would be structured, including, importantly, to what extent any property tax discounts would be offered.*
- *Currently, there are 55 property tax lots on the eight sites slated for new development. In fiscal year 2022, the city collected \$60 million in property taxes on these sites, a very small share of the city's more than \$29 billion in total property tax revenue. ESD has indicated that it intends to reimburse the city for this lost tax revenue (with annual escalations), although this also has yet to be formalized. While such an arrangement would help keep the city fiscally whole, it reduces the amount of revenue ESD has to pay back the station project's debt.*
- *Without more data on projected costs and revenues, it is impossible to know whether revenues will meet debt service costs. The plan does not address what should occur if revenues fall short of costs, with no details on how those costs would be covered or by what level of government.*
- *ESD's plan would finance near-term station improvements with revenue from future private development, posing a timing risk. The station reconstruction and expansion projects are expected to be completed by 2032, but the development sites would not be fully completed until 2044. When there was a similar timing issue for the nearby Hudson Yards development—financed by the city in a similar manner—the city provided hundreds of millions in debt service payments from its own coffers until adequate revenue was available. While the state has acknowledged the timing issue, again, it has yet to provide information on how it would be resolved, leaving the impact on city and state finances far from certain.*
- *The Penn Station financing proposal does not include repealing Madison Square Garden's exemption to help fund the transit projects. The arena, located directly above Penn Station, is exempt from paying property taxes, saving the owners \$43 million annually.*
- *The majority of the proposed development is new Class A office space. Pandemic-related changes in work arrangements have raised questions whether there would be sufficient demand for such space in the future. High-end office space has fared favorably in the near term, and the transit-rich location of Penn Station may make the area particularly attractive to employers. There is potential, however, that new office space near Penn Station may erode demand for nearby Hudson Yards. It is difficult, however, to predict where the commercial real estate market will be in two decades, when the proposed Penn Station development is expected to be complete."*

Bottom Line – no one believes ESD’s GPP funding and financing schemes will have better results than Hudson Yards or will actually pay for Penn Station and track level improvements. In fact the NYC IBO stated ESD’s Penn Station GPP *“lacks many of the basic and important details needed for a robust analysis, and leaves many open questions about the impact on state and city finances.”* How can it be acceptable for ESD’s Penn Station GPP to not even include the minimum basic and important details needed for the IBO to even be able to do a robust analysis of the finances for such a massively expensive plan. How can our elected officials allow this huge risk to taxpayers?

ESD’s GPP assumes that Penn Station must be expanded outside of its current footprint but to date has not seriously considered through running as an alternative. Through Running provides increased transit efficiency, superior one fare rides and a unified rail network connecting the entire region. Major cities all over the world and in the United States already have or are implementing far more efficient through running stations.

The “at risk of destruction” buildings and blocks in the GPP are not blighted, substandard, a slum, unsanitary or even avoided by the public. In fact, these areas and buildings are a vibrant, busy, sought after business and residential community. It is knowingly fraudulent that ESD has portray these at-risk blocks in such a way in their outdated, inaccurate and deceptive Neighborhood Conditions Study in order to try and justify why these buildings deserve to be demolished. My building has undergone a multimillion dollar renovation and modernization in the last 6 years using private capital with over 55 building permits issued.

There were over 55 building permits issued for the multi-million dollar renovation and modernization of 251 West 30th Street from 2016 to the present. Only one of these permits was issued after the February 2021 date ESD has listed on their Empire State Complex Neighborhood Conditions Study. Yet ESD chose not to include any of these building permits or any of the improvements from them to our building in their study. ESD chose to not even list that our building was being renovated. ESD uses outdated pictures from many years ago while our building was in the beginning of its renovation and having interior demolition that required boarded up windows for safety to the public. The only possible explanation that would exonerate ESD from being intentionally deceptive in their study for 251 West 30th Street would be that their study was completed before the earliest building permit for the renovation was issued by DOB. If that is the case it means that ESD’s study of 251 West 30th Street was completed prior to late 2017 and certainly should not have a study date of February 2021. It would also mean that ESD’s Empire State Complex Neighborhood Conditions Study is out of date, totally inaccurate and is deceptive because this is already documented to them. If their study was completed after building permits for the renovation of 251 were already issued by DOB, then ESD must answer why they only listed negative data from DOB and none of the data about building permits issued for renovation and modernization of 251.

Whatever the truth may be there is no doubt that ESD’s Empire State Complex Neighborhood Conditions is inaccurate, out of date and does not document the true condition of 251 West 30th street. As such the study is clearly deceptive and ESD must be required to complete a new, up to date and accurate study that documents the current condition of each at risk building in the project area. Many other buildings in the project area have also had large private investment and renovation that is not shown in ESD’s study.

The GPP even violates the UDC's enabling legislation commonly called the UDC Act. There are certain requirements an area must have for ESD to justify a land use action under the UDC Act and it is clear ESD's Penn GPP does not meet the UDC Act requirements.

ESD's GPP does not provide any protection for displaced businesses or their employees and almost no protection for displaced residences. It is also actually carefully calculated to rob rent regulated seniors of their legal NY rent stabilization when their lifelong homes are destroyed and they are displaced.

The GPP does not provide any public services unless their preferred southern expansion alternative is approved by NEPA which they have no control over. Yet they propose to clear cut several city blocks and destroy over 40 classic NYC buildings including at least 13 National Register-eligible and two National Register-listed historic buildings many that currently offer many public services.

It is very dangerous that ESD strips any direct control of the project from NYC government, their agencies, their far more transparent ULERP process which is more fair, far more transparent, more inclusive, and has badly needed checks and balances.

Finally, the environmental toll to destroy so many buildings can never be offset. Everyone knows this. There are just so many bad aspects to destroying these buildings including the carbon cost, hazardous materials, dust, noise, displacement, congestion bad air quality and much more over the next 20 years.

NYC needs an up to date and visionary Penn Station improvement plan for the busiest mass transit station in the United States. ESD's GPP does not even begin to be that plan and is completely unacceptable on so many levels. NY must have an optimal, responsible Penn Station improvement project that truly benefits the public and puts their welfare above big real estate.

Respectfully,

Eugene Sinigalliano

President - 251 West 30th Street Residential Tenants Association

Beautification Director of the Midtown South Community Council

Residential Advisor - Empire State Development's Community Advisory Committee Working Group



Statement of ReThinkNYC 6/29/2022
Submitted to Empire State Development Corporation

We have the largest transit hub in the hemisphere and one of the shoddiest.

This is in a year where we have a trillion-dollar infrastructure package.

Working people of the tri-state area are asking for a safe, reliable, well-planned station to get to and from work. **ReThinkNYC has such a plan.**

The Governor says that all we can expect is better and more escalators, more elevators and high ceilings in the old facility – plus a narrow skylight in a cavern of shadow casting supertalls .

Commuters, apparently, should be thankful for continuing to go underground like rats into the sewer.

We are told we need to level an entire fully functional neighborhood of mostly working and lower income residences and small businesses which Roth, Vornado and their accomplices have manipulatively tarred as “blighted”. The use of the “blight” tactic is a standing part of their playbook to demolish that which they do not like.

We are asked to believe Roth’s campaign contributions to the Governors (plural) didn’t facilitate this result.

The State should be looking at Madison Square Garden and 2 Penn Plaza and figuring how to give us back a real train station. Instead, they want to “euthanize” the surrounding neighborhood.

Is this the best and most equitable thing we can do at Penn Station?

The Gateway Tunnels should provide us with a seismic opportunity to promote decongestion of one of the world's most congested metropolitan areas.

Gateway should enable us to implement through-running which would allow trains to travel through Manhattan to other centers of business activity in the region instead of languishing in rail yards, or to return empty.

Through-running, the modern international standard, can be implemented in the envelope of the current Penn Station and Moynihan and eliminate the need to demolish any buildings on 31st and 30th Streets.

Why is this opportunity being squandered?

The commuter railroads – with no transparency and some of the most belligerent practices with respect to Freedom of Information requests – suggest this is not feasible and we should wait until 2080.

Their reasons are myopic and misinformed. We have pointed to those defects in prior submissions, including their engineering analysis of our plan. Their analysis changed our plan and then faulted us for those very same changes. We have pointed this out to them repeatedly but they stand by and repeat their faulty conclusions. We will leave it to others to assess their candor and motivation in doing so. Even with their faulty “Heads we win, tails you lose” engineering report they indicate we provide essentially the same capacity increase as their plan at half the cost.

Now, The Tri State Transportation Committee has also come forward in favor of through-running. Let's see how the transportation industrial complex adjusts to this heresy.

The MTA and others need to fairly assess and implement our plan, not their bastardization of our viable through-running alternative.

Andy Byford, formerly of our MTA, escaped across the pond and just opened a transformative through-running operation in London to broad international acclaim. Meanwhile, we had international travelers to a recent transit conference in Newark, who upon landing in JFK, could not believe the rigamarole of getting to Newark – three trains?

Our commuters and reverse commuters go through worse every day.

Given this, why should we wait decades before through-running can be implemented? Why isn't Madison Square Garden moving? Why can't we hope for a great above ground station.

We need to withdraw the GPP, Master Plan and other Penn Station initiatives or pause it for a year in order that:

- We can resolve the transit plan and federal funding issues
- We resolve where to move Madison Square Garden and when/
- We resolve the design for a bona fide above ground station worthy of the region and city.

Samuel A. Turvey

Chairperson

ReThinkNYC,

Co-Coordinator,

Empire Station Coalition

From: Chuck Weinstock <>
Sent: Friday, July 8, 2022 1:08 PM
To: esd.sm.PennStationArea
Subject: Penn Station — Comments on FEIS

I write on behalf of the following organizations:

Manhattan Community Board 5
251 West 30th Street Residential Tenants Association
29th Street Neighborhood Association
Midtown South Community Council
City Club of New York
Rethink NYC
Alliance for a Human-Scale City and
Environmental Simulation Center.

We write to state our objections to the Final Environmental Impact Statement ("FEIS") for the Pennsylvania Station Area Civic and Land Use Improvement Project.

On February 21, 2022, we submitted the attached comments on the Draft Environmental Impact Statement ("DEIS Comments"). This week we reviewed the FEIS, and were disappointed to discover that it failed to address the very substantial arguments we had made in those comments. The changes are perfunctory and cosmetic. In particular, they do not address perhaps the most significant problem — that the plan has been severed from the larger, animating project of which it is a part, namely the Master Plan for Pennsylvania Station. As our earlier comments explained, this constitutes illegal segmentation under the State Environmental Quality Review Act.

The consequence of this segmentation is that the FEIS (1) never considers the environmental effects of the Master Plan as a whole (see DEIS Comments, pp. 38-54); (2) never establishes, as it must, that the reconstruction of the station requires the project's lavish gift to neighboring property owners (pp. 27-30); and (3) never provides the granular financial analysis demonstrating that the project will actually produce the money that ESD claims to need (pp. 30-38).

At a minimum, ESD must define the actual revenue model it intends to use, and set a deadline for the owners to complete their new buildings. As the project is now designed, the revenue will not come in until the buildings are up. Without a construction deadline, all the plan will do is vastly increase the value of the owners' properties. They will be free never to build, and thus free never to provide the public with the only conceivable benefit of the project.

Thank you.

Charles Weinstock

COMMENTS AND OBJECTIONS
BY
MANHATTAN COMMUNITY BOARD 5,
251 WEST 30TH STREET RESIDENTIAL TENANTS ASSOCIATION,
29TH STREET NEIGHBORHOOD ASSOCIATION,
MIDTOWN SOUTH COMMUNITY COUNCIL,
CITY CLUB OF NEW YORK,
RETHINK NYC,
ALLIANCE FOR A HUMAN-SCALE CITY,
ENVIRONMENTAL SIMULATION CENTER
TO
DRAFT GENERAL PROJECT PLAN
AND
DRAFT ENVIRONMENTAL IMPACT STATEMENT
FOR
PENNSYLVANIA STATION AREA
CIVIC AND LAND USE IMPROVEMENT PROJECT

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February 21, 2022

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The following organizations submit these comments and objections to the Draft General Project Plan ("GPP") and Draft Environmental Impact Statement ("DEIS") adopted by Empire State Development ("ESD") for the Pennsylvania Station Area Civic and Land Use Improvement Project, formerly known as the Empire Station Complex Civic and Land Use Improvement Project:

Manhattan Community Board 5 is the New York City community board charged with reviewing land use and zoning applications in the City's central business district, including Penn Station, Herald Square, the Garment District, Koreatown, the Flatiron District, Union Square, Times Square, and East and West Midtown.

The 251 West 30th Street Residential Tenants Association represents the tenants living at 251 West 30th Street, a 16-story mixed-use building that would be demolished under the plan.

The 29th Street Neighborhood Association works to protect the quality of life in the community running from 24th to 33rd Street between First and Eighth Avenue.

The Midtown South Community Council seeks to build better neighborhoods within the Midtown South community.

The City Club of New York promotes land use policies protecting the essential character and social, historic, and cultural resources of New York City.

ReThinkNYC promotes innovative thinking about the future of transportation, infrastructure, land use, and governance in New York City and the surrounding region.

The Alliance for a Human-Scale City is a coalition of nearly 100 neighborhood, public space, and civic organizations dedicated to promoting a more human build-out of the City and preserving its historic neighborhoods.

The Environmental Simulation Center is an organization of urban planners, urban designers, and architects developing new applications of information technology to plan and design better cities.

PRELIMINARY STATEMENT

1. Segmentation

The disqualifying problem with this project is best illustrated by the Hindu parable of the blind men and the elephant: Four blind men encounter an elephant for the first time. One of the men feels a leg, another a tusk, another the trunk, and the last the tail. After comparing notes, they throw up their hands. No one has a clue what the animal is.

The elephant here is the plan to reconstruct and expand Penn Station (the "Master Plan"). The tusk is the plan by Governor Hochul and ESD to help fund the Master Plan by overriding New York City's zoning laws and granting neighboring property owners around 18.2 million gross square feet ("GSF") of development rights (the "Override") – a 76 percent increase above current zoning. Earlier this month, breaking with a long tradition of deference to ESD, the City Planning Commission declined to support the plan.

As the Commission pointed out, the GPP and DEIS willfully disregard every component of the Master Plan except one – the Override – thereby denying the public any chance to review the larger, animating plan. The only reason the Override even *exists* is to underwrite the Master Plan, and ESD's failure to consider them together is textbook segmentation in violation of the State Environmental Quality Review Act ("SEQRA").

The segmentation also violates the Urban Development Corporation Act (the "UDC Act"), which requires that the public improvement – a new Penn Station – be located within the "project area." Although ESD declares that it is, it *cannot* be. The exclusion of the station from the GPP is the very starting point of ESD's segmentation strategy. An agency is not free to define a "project area" without reference to the actual location of its project.

The agency cannot have it both ways: It cannot claim that Penn Station lies within the project area to qualify as a UDC project and then claim that it lies outside the area to avoid an environmental review under SEQRA.

2. The Complicity of the Other Agencies

The other involved agencies have declined to pick up the slack. Although the Federal Transit Administration (the "FTA") has begun reviewing the station's proposed expansion south of 31st Street (the "Penn Expansion") under the National Environmental Policy Act ("NEPA"), it has refused to

consider the contributing impacts of either the Override or the reconstruction of the existing station (the "Penn Reconstruction").

Astonishingly, the FTA and the Metropolitan Transportation Authority (the "MTA") appear to have dispensed altogether with an environmental review of the Reconstruction, arguing that this project – a \$6 to \$7 billion, top-to-bottom overhaul of the busiest transportation hub in North America – qualifies under a NEPA categorical exclusion reserved for minor improvements to a rail station. This would allow the agencies to dispense with even a preliminary environmental assessment. It is a deformation of the statute to invoke it in this instance.

In short, not a single governmental agency, state or federal, plans to conduct a unified environmental review of this vast, consequential project.

3. The Hole in the Story: A Design for Penn Station

Segmenting the Master Plan conceals the most remarkable fact here: Neither ESD nor its partners have the slightest idea what the new station is going to look like. A year after the GPP and DEIS were issued, there is still no design for either the Expansion or the Reconstruction. Literally the only public information about the design is a handful of "illustrative" renderings of the Reconstruction, prepared by the MTA. As for the Expansion, there are not even renderings.

This is urban planning on a cocktail napkin.

Moreover, even if the MTA had provided an actual plan for the new station, it has never been endorsed, as it must be, by its partners – the FTA, Amtrak, and New Jersey Transit. Not one has given *any* indication that it supports this inchoate design, nor have they proposed alternatives of their own. Given the stakes here, the failure of vision and responsibility is striking.

ESD attempts to limit the discussion to the MTA's renderings. But a proper review of the Penn Reconstruction requires consideration of a range of dramatically different concepts. One would be building a new station on Seventh Avenue, replacing the lower floors of Penn 2 or perhaps the entire building. Another would be constructing the station above the Expansion, on the south side of 31st Street. A third would be demolishing Madison Square Garden and replacing it with an above-ground station. Some of the most prominent architects and planners in the City have submitted designs for such a replacement, ranging from Classical to High Modern. Some would retain the Expansion, others would dispense with it and create a through-running station

occupying the entire block, one stop in a unified regional transit network. As for the design of the Expansion, there is an equally wide array of possibilities.¹

4. Financial Segmentation

Unable to say what the new station would be, ESD is also unable to say what it would cost – an omission that is fatal to the proposal. The first question in any review under SEQRA or the UDC Act is, "What is the action's purpose and need"? In this instance, the primary purpose of the Override is to raise money for *another* project: the rehabilitation of Penn Station. It is a *financial* venture, and therefore the agency's argument must begin by defining the other project's financial needs.

In declining to recommend approval of the GPP, the City Planning Commission affirmed the necessity of addressing the funding of the project now: "[I]t is a topic that must be concretely resolved prior to affirming the GPP." City Letter at 2.

Typically, project funding is not the subject of a GPP or DEIS. But where the project's *raison d'être* is to raise revenue, it must be. Before ESD bestows 18.2 million square feet of development rights on neighboring owners, it must answer three questions:

1. How much would the Master Plan cost?
2. How much have the other involved agencies committed to contribute?
3. How much would the Override itself generate – and when?

The GPP and DEIS offer *no* cost estimate for the larger plan, nor for any of its component parts. Months after they were issued, however, in response to widespread criticism, ESD announced that the total cost of the Penn projects would be \$30 to \$40 billion – including \$12 billion for the

¹ These comments do not consider the relative merits of the various designs, but the MTA should certainly be guided by the criteria that the Planning Commission set out in its letter declining to approve the GPP: "[T]he new terminal should be a facility of enduring quality and superior design that inspires a sense of civic pride in the new transportation station." Letter of Anita Laremont, Chair of City Planning Commission, to Hope Knight, President and CEO of ESD (Jan. 27, 2022) ("City Letter"), attached as Exhibit A, at 3.

Tunnel, \$10 billion for the Expansion, and \$6 to \$7 billion for the Reconstruction. But the agency has refused to parse these numbers, at least publicly, or to state the assumptions underlying the estimates.

Again, there is an obvious explanation: If it does not know what the Expansion and Reconstruction are going to be, it cannot know what they are going to cost.

The financial commitments of the other agencies are equally uncertain. One important unknown is whether the project qualifies for a grant under the FTA's very competitive Capital Investment Grant program. Without it, New York's share of the costs could rise by as much as \$2 billion. Another contingency is what Amtrak and New Jersey Transit would pay. At this point, they have made no commitments at all.

The final unknown is what the Override itself would generate. ESD is strangely casual about the issue. It has not even developed a revenue plan. Instead, it simply lists five hypothetical funding mechanisms that "could" be used. It is astonishing that a full year after the GPP and DEIS were issued – and as a final vote on the GPP now approaches – we are still at "could." And these hypothetical mechanisms would yield far less than ESD claims.

The question of *when* the revenue would come is at least as important as the question of how much. The ostensible justification for severing the Override from the Master Plan is that ESD needs the revenue now in order to pay for the work on the station. But the agency concedes that, even using its own optimistic construction schedule for the towers, almost none of the money would come in until after the station and tunnel were finished – by the agency's estimate, in 2030.

Glacial as ESD's projected schedule is, the real schedule would be slower. The agency has inexplicably declined to require the developers to pay their additional development rights upfront, although it surely has the right to do that. The earliest payments would not be due until the developers were ready to build. At the same time, ESD would not impose any deadlines for starting construction; the developers would be free *never* to build.

In this uncertain commercial market, with a glut of office space in midtown Manhattan, it could be 15 or 20 years before they moved ahead with construction and the money began flowing to ESD. Vornado certainly recognizes the grim economic future: Last week its chairman said that the company was calling off its plan, announced with much fanfare last April, to issue stock to track its development in the Penn District.

It is a near-certainty that, with or without the Override, the agency would have to borrow the entirety of New York's share of the Master Plan costs (apart from the Legislature's \$1.3 billion appropriation bond last year).

Approving the GPP would not even reduce the agency's debt service. Whether ESD granted the development rights today or in another few years would have no bearing on when the owners actually built the towers, and thus no bearing on when ESD began receiving revenue to repay the debt. Their schedule would be dictated by the economy, not the zoning.²

5. Blight

ESD also argues that, whether or not the Override is needed to fund the new station, the neighborhood is a "substandard and insanitary" area – blighted – and must be leveled to make way for new Class A buildings. It is a risible argument.

The area is dominated by the celebrated new Moynihan Train Hall; Madison Square Garden, whose owners recently completed a \$1 billion renovation of the arena; the James A. Farley Building and two Class A office towers that are midway through a \$2.4 billion modernization; and 15 buildings that are either listed or eligible for listing in the National and State Registers of Historic Places. The chairman of Vornado Realty, which owns or controls five of the eight sites that would benefit from the rezoning (as well as the two office towers), stated:

Day and night, the Penn District is teeming with activity. Our assets sit literally on top of Penn Station, the region's major transportation hub, adjacent to Macy's and Madison Square Garden. . . The Penn District is our moonshot, the highest growth opportunity in our portfolio. . . In the Penn District, we are creating a campus, a city within a city, which will become the beating heart of the NEW New York.

² ESD suggests that another function of the Override would be to serve as a "local funding commitment" to the FTA that New York will pay its share of the Master Plan costs. While it is true that the FTA requires such a commitment before it will issue a grant or low-interest loan, the plan here is far too wobbly, with far too many contingencies, to meet the criteria for qualifying as a "commitment" under FTA regulations. See 49 C.F.R. § 611.205; FTA, *Final Interim Policy Guidance Federal Transit Administration Capital Investment Grant Program* (June 2016), at 32-33.

Steven Roth, Chairman's Letter (2020), at 14, books.vno.com/books/qybn/-p=16.

According to ESD's own Neighborhood Conditions Study, only *eight* percent of the land in the project area is in "poor" or "critical" condition. Ironically, the only building in "critical" condition is owned by one of ESD's project partners, Amtrak.

This is not blight.

6. Environmental Impacts

In addition to not properly defining the project's purpose and need, the DEIS fails to take the required "hard look" at the potential adverse environmental impacts of the plan – on land use and zoning; urban design and visual resources; transportation; air quality; water and sewer infrastructure; and noise, among other impacts.

And obviously the DEIS took no look at all, hard or soft, at the potential impacts of Governor Hochul's revisions, announced after the DEIS was issued. These changes are substantial – redistributing the tower massing; converting 31st Street between Seventh and Eighth Avenues into a shared street; shuffling open spaces and transit access points; and adding residential uses (though not nearly enough). They render many chapters of the DEIS obsolete. But rather than prepare the required Supplemental EIS ("SEIS") for those chapters, affording the public an opportunity to comment on the changes, ESD proposes to address them in a series of "updates" incorporated into the final EIS – *after* the public has had a chance to respond. That is not permitted under SEQRA.

The environmental analysis fails for a third reason as well – segmentation. By narrowing the DEIS's focus to the effects of the Override alone, ESD disregards the cumulative impacts of the Master Plan as a whole. *See* 6 N.Y.C.R.R. § 617.7(c)(2). This is a global failure, corrupting every chapter of the report, and it cannot be cured with an SEIS. For this reason, ESD must start over.

7. Plan Alternatives

Governor Hochul's revised plan pays homage to the two strongest alternatives analyzed in the DEIS – adding a residential component and reducing the total density of the project. But it fails to satisfy SEQRA's

requirement that the agency fully evaluate those plans. Indeed, it offers no evaluation at all, only a list of the proposed changes. Moreover, even if it did, those changes are too narrow in ambition to satisfy their ostensible purpose.

The new plan would require only 542 residential units, of which only 162 would be permanently affordable. At a time when the supply of housing is low and the supply of commercial real estate high – witness Hudson Yards and another 10 million square feet now under construction on the Far West Side – this is a pittance. By contrast, Atlantic Yards, another of ESD's land use improvement projects, provided 2,250 units of affordable housing alone. When the displacement of the Penn Station area's current residents is also factored in, the project could result in a net *loss* of residential units.

As for lowering density, the Governor's new plan would reduce it by only seven percent, from 19.6 to 18.2 million GSF. The DEIS itself illustrates the inadequacy of that number: Its lower-density alternative calls for a 34 percent reduction.

8. Vornado

One reason to be skeptical about the Override's real purpose is the continuing influence of Vornado in the development of the plan. The company's chairman (together with his wife) contributed at least \$384,000 to former Governor Cuomo's political campaigns. See Josefa Velasquez and Rachel Holliday Smith, "Embattled Cuomo Pushes Skyline-Altering Penn Station Real Estate Plan as Critics Mobilize," *The City* (Apr. 2, 2021), thecity.nyc/manhattan/2021/4/1/22363306/cuomo-penn-station-real-estate. The company also assumed half the cost of ESD's contracts with its financial advisors, Ernst & Young, creating an obvious conflict of interest. See *infra* at 31 n.11.

Even after Cuomo's resignation, Vornado appears to be exercising its influence over the project: Almost all of the revised plan's reductions in density are on the *non*-Vornado sites. The five Vornado sites lost just two percent of their GSF; the others lost 11 percent. See ESD, *ESD Staff Proposed Revisions to February 2021 Draft General Project Plan* (Nov. 10, 2021) ("Hochul PowerPoint"), at 11 (FAR equivalents).

9. The City's Autonomy

This project requires particular scrutiny because it trespasses so brazenly on one of the essential powers of municipal government: the power to zone. Over the past 40 years, the City has painstakingly exercised that power

in considering the social and economic needs of the Penn Station area. On five separate occasions, drawing on the superior local knowledge of the Planning Department, the City Council has rezoned within the plan's project area – the Special Midtown District (1982), the Chelsea Rezoning (1999), the Penn Center Subdistrict of Special Midtown District (2001), the Special Hudson Yards District (2005), and the Hotel Pennsylvania (2010). In addition, it has issued several special permits, including significant ones for Madison Square Garden (1963, 2013), the Hotel Pennsylvania (2010), and the plazas and arcades around Penn 1 (2019).

If that has not, in the end, been enough to fully transform the area, it is hardly the City's failure. The health of this neighborhood depends above all on the health of Penn Station, which the City has never had the authority or resources to overhaul. ESD and its partners do. But they have failed to demonstrate that their current proposal, premised on the most fanciful of revenue projections, would help restore the station to good health. It is a gift to developers, not the City.

I. ESD IMPROPERLY SEGMENTED THE SEQRA REVIEW OF THE MASTER PLAN

The SEQRA regulations define "segmentation" as "the division of the environmental review of an action such that various activities or stages are addressed under this Part as though they were independent, unrelated activities, needing individual determinations of significance." 6 N.Y.C.R.R. § 617.2(ah). The regulations continue:

Considering only a part or segment of an action is contrary to the intent of SEQR. If a lead agency believes that circumstances warrant a segmented review, it must clearly state in its determination of significance, and any subsequent EIS, the supporting reasons and must demonstrate that such review is clearly no less protective of the environment. Related actions should be identified and discussed to the fullest extent possible.

Id. § 617.3(g)(1).³

The "action" in this case is indisputably the Master Plan. The DEIS concedes the point, describing the Override as a "critical component" of the larger one. DEIS at S-2. ESD ties itself in linguistic knots trying to avoid the charge of segmentation, describing the Master Plan as an "independent but related project," "separate but complementary." GPP at 10; DEIS at 1-8. This is double-talk. Just this past summer, in its July 15, 2021 town hall presentation, ESD defined Moynihan Train Hall, the Penn Expansion, the Penn Reconstruction, and the surrounding commercial redevelopment as "one interconnected complex." ESD, *Empire Station Complex Town Hall Presentation* (July 15, 2021); see DEIS at S-8. ESD cannot simply airbrush the Master Plan out of the photograph.

ESD offers only the most cursory of "supporting reasons" for segmenting the action, and never even attempts to explain how its limited review of the Override could be "clearly no less protective of the environment" than a comprehensive review of the Master Plan. How could it? The agency

³ For general background on SEQRA segmentation, see N.Y.S. Department of Environmental Conservation, *SEQR Handbook* (4th ed. 2020), Ch. 2, dec.ny.gov/docs/permits_ej_operations_pdf/seqrhandbook.pdf; N.Y.C. Mayor's Office of Environmental Coordination, *CEQR Technical Manual* (2020), § 130, nyc.gov/assets/oec/technical-manual/CEQR_Cover_2020.pdf.

acknowledges that it will ignore all potential adverse impacts of the other components of the project.

This case meets every one of the eight criteria that the State's own Department of Environmental Conservation ("DEC") has set for determining whether actions must be reviewed together:

The two plans have a "common purpose."

The plans here share the purpose of reconstructing and expanding Penn Station – one funding it, the other building it.

They have a "common geographic location."

They are across the street from each other.

They are "components of an identifiable overall plan."

ESD itself describes the Override as a "critical component" of the Master Plan.

They are "functionally dependent."

The primary function of the Override is to generate "essential revenue" for the Master Plan. The primary function of the Master Plan is to create a modern Penn Station – which, according to ESD, is necessary to make the redevelopment of the surrounding sites economically viable.

They are under "common ownership and control."

ESD is the lead agency for the Override, and its sister agency, the MTA, is expected to be the lead state agency for the Penn Reconstruction.

They contribute to significant "cumulative" and "synergistic" impacts.

We detail those impacts below.

There is a common reason for them to be "completed at or about the same time."

The revenue for the Master Plan would flow only after the commercial buildings were underway. In addition, the proposed rail and transit entrances and accessways on the eight sites would be inside the new buildings, so until the buildings were up, there could be no such improvements. Moreover, the literal alignment of those improvements with the subways and trains would require coordinated planning and construction.

Approving one phase of the plan "commits" the agency to approving the other.

Again, if the revenue from rezoning is "essential" to funding Penn Station, and only a new Penn Station would make the redevelopment of the surrounding sites economically viable, then going forward with one requires going forward with the other.

DEC, *SEQR Handbook* at 53-54.

Far from requiring that all of these criteria must apply, DEC states: "If the answer to *one or more* of these questions is yes, an agency should be concerned that segmentation is taking place." *Id.* at 53 (emphasis added). If the answer to every one of them is yes, the conclusion is inescapable.

ESD nevertheless asks that the segmentation be excused because "the details necessary for a detailed examination of the impacts of those separate actions [*i.e.*, the Master Plan] are not available as of the date of the preparation of this DEIS." DEIS at 2-7. In other words, the agency can consider only what "can be reasonably identified based on the information available at this time." *Id.*

ESD's logic is exactly upside down. Its ignorance about the real costs and impacts of the Master Plan is precisely *why* the segmented DEIS must be discarded. If ESD does not know the facts necessary to determine whether the plan would serve its stated purpose and need, then it must wait until it does.

The agency assures us that, in any event, it can clean things up later. Thus, for example, in its discussion of the Penn Expansion, the DEIS states:

To the extent that new information regarding the potential Penn Station expansion (e.g., more specific design information, etc.) becomes available in the future, additional environmental analyses and findings would thereafter be prepared to the extent appropriate by one or more of the governmental sponsors prior to any final action by ESD with respect to such expansion.

Id. But the "additional environmental analyses" that the agency refers to would be the NEPA reviews of the other components of the Master Plan. This would come well after ESD had already approved the Override.

The DEIS also attempts to justify the segmentation by pointing out that the funding sources would be different in the various plans. See DEIS at S-20. DEC's guidance, however, flatly rejects that argument: "It is common in

many projects to have a mix of funding sources (for example, local highway construction, affordable housing, or economic development). If the various funding sources support the same project, or a group of projects that are part of the same overall action, then they should be examined in a single environmental review." DEC, *SEQR Handbook* at 55.⁴

* * *

NEPA, the federal environmental review law under which the Penn Expansion and Reconstruction plans would be considered, also prohibits segmentation. In particular, it requires that "connected actions" – those, for example, that are "interdependent parts of a larger action and depend on the larger action for their justification" – be considered together. 40 C.F.R. § 1508.25(a)(1)(iii). In its consideration of the remaining phases of the Master Plan here, the FTA has altogether disregarded this statutory imperative.

As we pointed out, it has declined to consider the contributing impacts of either the Override or the Reconstruction in its NEPA review of the Penn Expansion. And apparently it will conduct no review at all of the Reconstruction, arguing that this massive action somehow qualifies for a Categorical Exclusion ("CE") under the NEPA regulations.

It is an audacious argument. This exclusion is intended to apply to minor actions – platform extensions, track improvements, new retaining walls – that have been deemed, *as a category*, to be so clearly without significant environmental impacts that the agency need not even prepare a preliminary environmental assessment. See 23 C.F.R. § 771.118(a). The FTA's own NEPA guidance for CEs specifically cautions against segmentation: "A CE must capture the entire proposed action, which includes all connected actions." FTA, *Guidance for Implementation of FTA's Categorical Exclusions* (23 C.F.R. §771.118) (June 2016), at 2. A categorical exclusion – or, for that matter, a negative declaration – would not pass the straight-face test. The Reconstruction, no less than the Expansion, requires a full environmental review.

⁴ Later we will describe the more granular effects of segmentation on land use, zoning, and public policy; urban design and visual resources; transportation; air quality; noise; and water and sewer infrastructure.

II. THE GPP DOES NOT QUALIFY AS EITHER A CIVIC PROJECT OR A LAND USE IMPROVEMENT PROJECT UNDER THE UDC ACT

A. "Within the Project Area"

ESD argues that the GPP qualifies under the UDC Act as both a "Civic Project" and a "Land Use Improvement Project." GPP at 14-19; *see* UDC Act §§ 6, 9. To qualify as either, however, the proposed improvements must be *within* the project area. For Civic Projects, the agency must find that "there exists in the area in which the project is to be located" the need for a civic facility, and the facility must be built within that area. UDC Act § 10(d)(1). Similarly, for Land Use Improvement Projects, the agency must find that "the area in which the project is to be located is a substandard or insanitary area, or is in danger of becoming a substandard or insanitary area and tends to impair or arrest the sound growth and development of the municipality." *Id.* § 10(c)(1). The location requirement is, in effect, a prohibition on segmentation from another angle.

To meet these tests, ESD is forced to draw the GPP "project area" to include Penn Station, since it is the only conceivably "civic" facility and the only conceivably "substandard and insanitary area." And yet the exclusion of Penn Station from the project area is the very premise of the agency's entire segmentation strategy.

Here, as elsewhere, ESD tries to have it both ways. It needs to claim that the station lies *within* the project area to meet the requirements of the UDC Act. At the same time, it needs to claim that it is *outside* the area – or what, in this context, it evasively calls the "development" area – to avoid conducting a SEQRA review of the proposed new station.

Agencies, however, do not have *carte blanche* to define a project area without regard for where the project actually is. When this area is properly drawn, without Penn Station, the GPP fails to qualify as either a Civic Project or a Land Use Improvement Project.

Recognizing its problem, ESD attempts to argue that (1) the proposed towers themselves are a civic facility, and (2) the buildings they would replace are themselves a substandard and insanitary area. *See* GPP at 14-17. Again, the agency has a straight-face problem. Regarding the first of these arguments, it taxes our language to argue that a subway entrance – which would admittedly serve a civic function – could convert an 80-story Class A office tower into a

"civic facility."⁵ The second argument is no more convincing, as we will now explain.

B. Blight

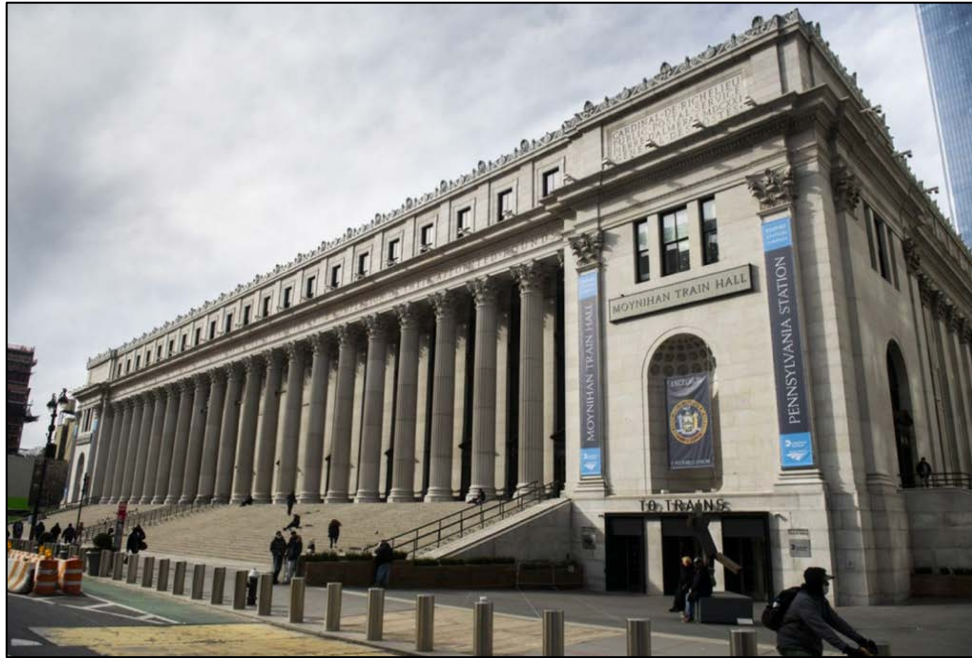
The statute defines a "substandard and insanitary area" as "a slum, blighted, deteriorated or deteriorating area, or an area which has a blighting influence on the surrounding area." UDC Act § 3(12). As we noted above, Vornado's own chairman has refuted any claim that the Penn Station area meets that definition:

Day and night, the Penn District is teeming with activity. Our assets sit literally on top of Penn Station, the region's major transportation hub, adjacent to Macy's and Madison Square Garden. . . The Penn District is our moonshot, the highest growth opportunity in our portfolio. . . . In the Penn District, we are creating a campus, a city within a city, which will become the beating heart of the NEW New York.

Steven Roth, Chairman's Letter (2020), at 14, books.vno.com/books/qybn/-p=16.

Even a short list of the buildings within the area illustrates how absurd it is to call it substandard and insanitary. Start with Moynihan Train Hall, described by *The New York Times* as a "stunning" restoration. Michael Kimmelman, "Moynihan Train Hall: It's Stunning. And a First Step," *New York Times* (Jan. 11. 2021), nytimes.com/2021/01/11/arts/design/moynihan-train-hall-review.html.

⁵ The plan fails the Civic Project test for another reason as well: It fails to establish that "adequate provision has been, or will be, made for the payment of the cost of acquisition, construction, operation, maintenance and upkeep of the project." UDC Act § 10(d)(3). We will discuss this in considerable detail in the next section.



On the commercial side, Vornado's Penn 1 (57 stories) and Penn 2 (31 stories) are premier office towers, whose current tenants include Verizon, AT&T, Direct TV, and Cisco Systems. Both towers are now undergoing extensive renovations. Here is Vornado's redesign of Penn 2:



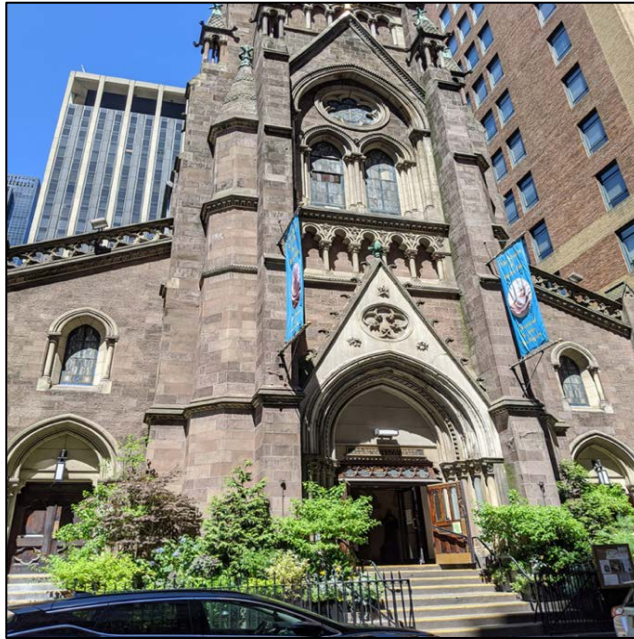
Here is Penn 1 today, pre-renovation:



The Industrious Building at 251 West 30th Street, a 14-story Art Deco structure built in 1929, just completed a multimillion-dollar renovation to create open-floor-plan co-working spaces for start-ups and tech companies:



The project area also includes several historic structures that are listed or eligible for listing in the State and National Registers of Historic Places. Among them is St. John the Baptist Roman Catholic Church on 30th Street, a French Gothic structure built in 1871-72 by the architect Napoleon LeBrun:



The Stewart Hotel on Seventh Avenue, a 25-story Italianate hotel built in 1929, was designed by Murgatroyd & Ogden, the firm that designed the Barbizon Hotel on Lexington Avenue, designated a landmark by the City's Landmarks Preservation Commission:



The Equitable Life Assurance Company Building (Penn 11), north on Seventh Avenue, is a 26-story Renaissance Revival structure, built in 1922-23 when the company fled its headquarters at 120 Broadway, the controversial building that led the City to enact the original 1916 Zoning Resolution:



The Penn Terminal Building, also on Seventh Avenue, is a 17-story Neoclassical brick office building constructed in 1920:



The Penn Station Service Building on 31st Street, a granite structure designed by McKim, Mead & White, is the last surviving element of the old Penn Station:



The Fairmont Building, also on 30th Street, is a 6-story Classical Revival structure built in honor of the founder of the Plumber's Trade Journal:



The 1919 Hotel Pennsylvania on Seventh Avenue is a 22-story Classical Revival hotel, also designed by McKim, Mead & White. Among its claims, in addition to architectural distinction, is its original phone number, Pennsylvania 6-5000 – the inspiration for the Glenn Miller standard, which he frequently performed in the hotel's Café Rouge:



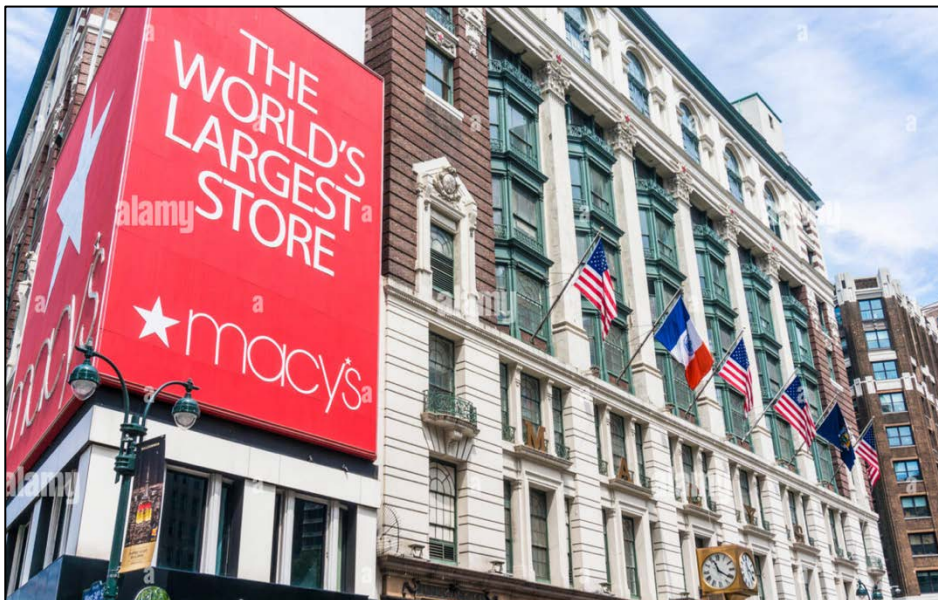
Although the hotel's owner – Vornado again – assured the public in 2013 that it would restore the building to its former glory, it has allowed the interior to fall into disrepair, no doubt to stave off the possibility that it would be landmarked (and in confident preparation for the Override). Vornado is now making plans to tear the building down. See Max Scott, "Say Goodbye to the Hotel Pennsylvania: Demolition Prep Is Underway," *Untapped New York* (2021), untappedcities.com/2021/11/16/hotel-pennsylvania-demolition/. See DEIS at 8-8 to 8-14.⁶

⁶ All of these historic buildings except the Equitable Life Assurance Company Building would be demolished under the plan. But before the ones on Sites 1-3 – the Fairmont Building, Stewart Hotel, Penn Terminal Building, Penn Station Service Building, and St. John the Baptist Roman Catholic Church – could be demolished, the plan would have to be reviewed under Section 106 of the National Historic Preservation Act of 1966 ("NHPA") and, likely, Section 4(f) of the Department of Transportation Act of 1966. See 54 U.S.C. § 306108, 36 C.F.R. § 800 (Section 106); 23 U.S.C. § 138, 49 U.S.C. § 303, 23 C.F.R. § 774 (Section 4(f)). The National Register-eligible buildings on Sites 4-8 – the Hotel Pennsylvania, in particular – might also need to be reviewed under these statutes, and a decision by Vornado to demolish the hotel before the completion of the federal review could constitute "anticipatory demolition" under Section 110(k) of the

And then there is the Garden. Whatever one's view of the arena, it is very much a going concern, an active venue for sports and entertainment:



Just outside the project area is Macy's, one of the world's great department stores.



NHPA. See 54 U.S.C. § 306113. That would jeopardize the project's applications for federal permits and funding.

There are also Old Navy, Crocs, Target, and a host of other stores nowhere to be found in blighted areas. Indeed, Old Navy and Target opened branches in the Atlantic Terminal Mall *after* ESD completed its land use improvement project there. Plain and simple, this is not blight.

To be sure, the presence of non-blighted buildings, even historic ones, does not disqualify an area from becoming a Land Use Improvement Project site. But the ratio of blighted to non-blighted must be far higher than it is in this instance. In a decision allowing non-blighted blocks within the Atlantic Yards project area, the court noted that 86 percent of the land in the project area, and 51 of the 73 parcels – 70 percent – qualified as blighted. *See Develop Don't Destroy (Brooklyn) v. Urban Development Corp.*, 2008 N.Y. Misc. LEXIS 7645 (Sup. Ct. N.Y. Co. 2008), *aff'd*, 59 A.D.2d 312 (1st Dep't 2009); *Goldstein*, 516 F.3d at 60.

Here, in stark contrast, ESD's Neighborhood Conditions Study found that only 8 percent of the land in the project area, and only 9 of the area's 61 lots, were in "poor" or "critical" condition. And the *only* building deemed to be in "critical" condition, the Penn Station Service Building, is owned by Amtrak. *See* NCS at 43, Figure E-2. The following diagram identifies the lots:

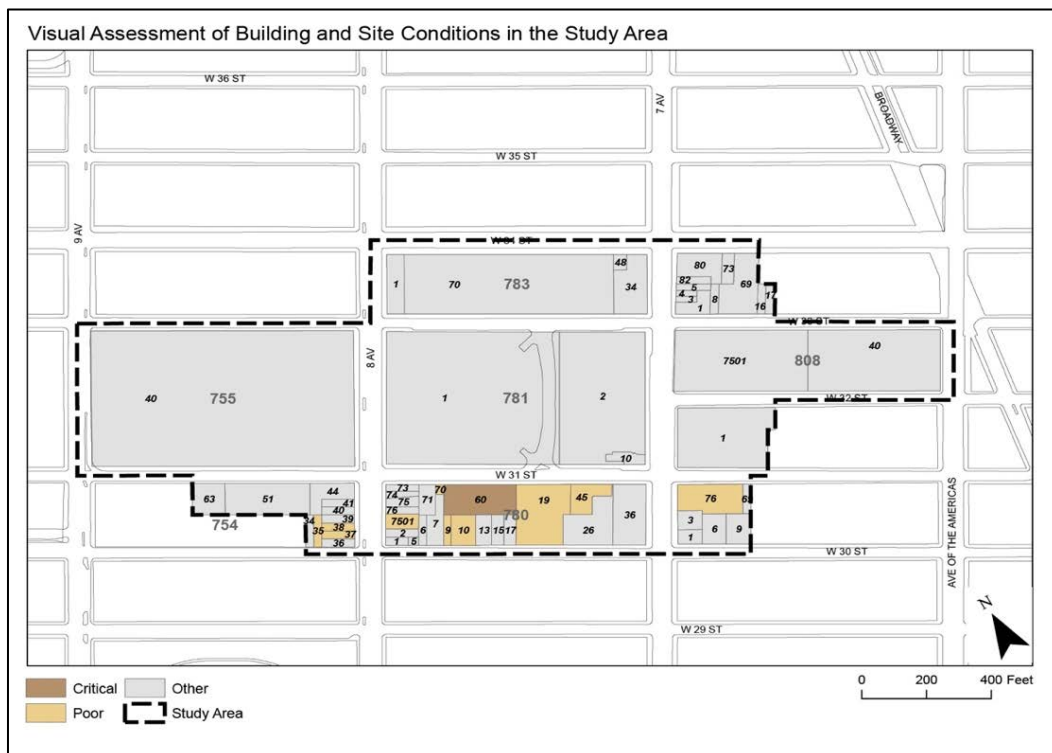


Diagram by George M. Janes & Associates

The GPP attempts to obscure these numbers with the statement that the project area contains a "high prevalence of buildings either in poor or critical condition." GPP at 17-18. But is 9 of 61 a "high prevalence"? Even if it were, merely counting buildings fails to distinguish between a two-story shop (234 West 30th Street) and a 57-story office tower (Penn 1). ESD attempts to defend its claim of blight with cherry-picked photographs taken in 2020, after COVID had begun decimating New York retail stores. See NCS at 13; Appendix 1. The presence of a few empty storefronts in a nine-block project area hardly justifies leveling the entire neighborhood.

Recognizing the weakness of its claim based on the condition of the buildings, ESD also makes an argument based on "economic stagnation." But where is the stagnation? Seventeen of the tax lots exceed the maximum permitted floor area under already-generous zoning laws, and another five are at the maximum.

New construction and renovation further contradict ESD's stagnation argument. In 2014, the owners of Madison Square Garden completed a billion-dollar renovation of the arena. The owner of the former garment factory loft at 251 West 30th Street recently completed a multimillion-dollar overhaul of the space. And Vornado itself is now in the midst of a \$2.4 billion renovation of Penn 1, Penn 2, and the Farley Building. See Chairman's Letter at 14. In November, after MSG signed a 20-year lease at Penn 2, Vornado's chairman proudly announced:

MSG's commitment to PENN 2 continues the momentum we are generating in the PENN DISTRICT, where we are creating a one of a kind, next generation work environment at the heart of New York City's thriving West Side.

Vornado Realty Trust Press Release, "MSG Leases 428,000 SF at Vornado's Penn 2" (Nov. 15, 2021), investors.vno.com/press-releases/news-details/2021/MSG-Leases-428000-SF-AT-Vornados-PENN-2/default.aspx.

Even if there were no recent construction activity, the premise of ESD's stagnation argument – that the absence of new Class A construction signals blight – is fundamentally unsound. Class B and Class C buildings are an integral part of New York's entrepreneurial infrastructure. ESD simply disregards the important economic development policy of adaptive reuse. Pre-war buildings are precisely the spaces that support start-ups and small businesses, and now, increasingly, big tech companies. Consider Google's \$2.1 billion purchase of the St. John's Terminal campus, a former freight terminal

near the Holland Tunnel, or Amazon's \$1.15 billion purchase of the Lord & Taylor building on Fifth Avenue. Closer to home, there is Facebook's lease of 730,000 square feet in Vornado's Farley Building. See Matthew Haag and Nicole Hong, "Google to Spend \$2.1 Billion on Manhattan Office Building," *New York Times* (Sept. 21, 2021), [nytimes.com/2021/09/21/nyregion/google-buys-building-hudson-square.html](https://www.nytimes.com/2021/09/21/nyregion/google-buys-building-hudson-square.html); Karen Weise and Matthew Haag, "Amazon Sticks with Office Expansion Plans in New York and Elsewhere," *New York Times* (Aug. 18, 2020), [nytimes.com/2020/08/18/technology/amazon-office-expansion.html](https://www.nytimes.com/2020/08/18/technology/amazon-office-expansion.html). Indeed, the multimillion-dollar renovations at 251 West 30th Street, now threatened with demolition, were designed precisely to create open space plans for high-tech start-ups. industriousoffice.com/l/new-york-city/west-30th/251-w-30th-street.

To the extent that there is any stagnation in the project area, the Neighborhood Conditions Study provides the best explanation: the condition of Penn Station itself. See NCS at 26-32. The solution is not to demolish the entire neighborhood in one blunderbuss action, in the manner of the discredited urban renewal projects of the 1960s. Rather, it is to trust that, when the station is brought back to life, a free market will bring the surrounding sites back to life.

The current zoning certainly leaves owners room to react to the market. According to the Neighborhood Conditions Study, the project area could support an additional 5,334,216 GSF of floor area without the Override, a 75 percent increase over what exists now. See NCS at 41.⁷

III. ESD FAILED TO ESTABLISH THAT REHABILITATING PENN STATION REQUIRES A RADICAL OVERRIDE OF THE CITY'S ZONING LAWS

The first task of any agency proposing a new action is to identify the project's "purpose and need." DEC, *SEQR Handbook* at 113. According to ESD, the Override's primary purpose is to provide "essential revenue" for the Penn Expansion and Reconstruction. DEIS at S-2; GPP at 2. And yet the

⁷ According to ESD, another indicator of blight is the "poorly designed landscapes and plazas." GPP at 18. Two things may be said in response: (1) Bad plaza landscaping will not take the agency very far in justifying a grant of 18.2 million GSF, and (2) Vornado is the entity that is legally required to maintain those plazas. It would appear that, to ESD – and certainly to auditioning developers – only new Class A towers with sylvan plazas will save a neighborhood from blight.

agency declines to answer the two obvious questions: (1) How much revenue is "essential"? and (2) Would the plan provide it?

To be sure, the project is also intended to help create a modern "transit-oriented" district with office, retail, hotel, and residential space. See GPP at 12; DEIS at S-3; Hochul PowerPoint at 8. But that worthy goal can neither explain nor justify ESD's decision to rezone on this scale. Its own Neighborhood Conditions Study acknowledges that a far less lavish rezoning could meet the goal.

As always with incentive zoning, the agency's task is to give away only what is necessary to achieve the project's purpose. But ESD never attempts to make the case that creating a modern "transit-oriented" district requires a 76 percent increase in bulk, nor could it have made the case.

The DEIS curtly dismisses the relevance of funding: "Project financing is not part of the EIS scope." DEIS at S-20. In the agency's December 2020 responses to the public comments on the Draft Scope of Work, it was similarly dismissive:

Purely economic considerations — such as those related to the potential availability of public capital funds, financing, and the funding streams made available through a Payments In Lieu of Taxes (PILOT) mechanism — are outside the scope of the DEIS studies, and therefore no assessment of financial feasibility, revenue projections, alternative funding mechanisms, or other financing considerations is required.

ESD, *Empire Station Complex Project Final Scope of Work for the Preparation of an Environmental Impact Statement* (Dec. 2020) ("ESD Scope Responses"), Appendix A at A-14; see also *id.* at A-96.

If the primary objective is to fund another project, the agency must explain how the plan meets that financial objective. Here, this requires answering the three questions we posed earlier:

1. How much would the Master Plan cost?
2. How much have the other involved agencies committed to contribute?
3. How much would the Override itself generate – and when?

A. The Cost of the Master Plan

ESD's omission of *any* discussion of the Master Plan's cost, either in the GPP or the DEIS, is reason alone to reject the plan.

Hoping to quiet the nearly universal criticism of this omission, ESD has since offered some crumbs: an unsubstantiated estimate of \$30 to \$40 billion for the project as a whole, with \$12 billion for the Gateway Tunnel, \$10 billion for the Expansion (including the cost of acquiring Sites 1-3), \$6 to \$7 billion for the Reconstruction, and the remainder for adjustments and surprises.

These numbers are far too general to serve any purpose. The statute requires that the public be given a chance to provide meaningful comment, which is impossible without a real breakdown of the costs and a statement of the assumptions underlying the estimate – above all, assumptions about the Expansion and Reconstruction. The MTA's "illustrative" renderings provide no basis for estimating costs. Even if they did, the agency's partners have not endorsed such a plan.

To repeat, the range of possible designs and corresponding costs is vast. A proper environmental review of the Reconstruction would require consideration of at least these alternatives: (1) a station on Seventh Avenue, either replacing Penn 2 or, more modestly, reconceiving its lower floors to create a new station entrance; (2) a station above the Expansion, south of 31st Street; and (3) the array of well-regarded designs, ranging from Beaux-Arts to contemporary, for an above-ground station replacing Madison Square Garden (and perhaps Penn 2 as well). *See* Hana R. Alberts, "Four Plans for A New Penn Station Without MSG, Revealed!" *Curbed New York* (May 29, 2013), ny.curbed.com/2013/5/29/10238978/four-plans-for-a-new-penn-station-without-msg-revealed; Michael Kimmelman, "Penn Station Reborn," *New York Times* (Sept. 30, 2016), nytimes.com/interactive/2016/09/30/opinion/penn-station-reborn.html.⁸

As for the Penn Expansion, there is not only no design; there may not even be an Expansion. The FTA has still not decided on Sites 1-3 as the "preferred alternative" for the new tracks, and it will not make its decision until after it completes the NEPA review. Or the FTA might decide that the existing

⁸ Needless to say, if the agencies have made cost estimates for any of these alternative plans, they need to disclose them.

tracks are sufficient to support a through-running station in a new regional transit network, dispensing with the need for the Expansion. Whatever the FTA decides, ESD is a mere bystander in this process. The DEIS puts it plainly: "ESD has no authority to approve or dictate the location of a Penn Station expansion." DEIS at S-20. If the federal government were to choose not to go forward with the Expansion under Sites 1-3, there would be no reason to acquire the sites.⁹

As for public transportation improvements, the DEIS is equally tentative; the list of improvements is only a list "under consideration." DEIS at S-16. Similarly, a majority of the public realm improvements are only "potential" improvements. *Id.* at S-17 to S-18. Governor Hochul's announcement offers no firmer commitments. *See* Hochul PowerPoint at 3-7.

To be sure, SEQRA does not require a lead agency to postpone its review until the project has produced its final plans. But as the State's own environmental agency explains, "the EIS should contain enough detail on size, location, and elements of the proposal to allow a reader to understand the proposed action and the associated impacts, and to determine the effectiveness of any proposed alternatives or mitigation." DEC, *SEQR Handbook* at 115. The DEIS fails that test, even when supplemented by the vague, unvetted cost estimates ESD has made in the months since.

B. Other Revenue Sources

The second missing number is the amount the other parties have committed to contribute financially. The DEIS and GPP are laughably vague about the division of financial responsibility among these entities. Regarding the Penn Expansion, for example, the GPP states:

Decisions about which public entity or entities would be responsible for the property acquisitions for such Penn Station expansion, how ownership, use and occupancy of the sites would be allocated, and the allocation of responsibilities for the costs of acquisition, construction, operation, maintenance,

⁹ It is suspicious that ESD would proceed with the upzoning of the other five sites – all owned by Vornado – even if the federal government decided not to go forward with the Expansion on Sites 1-3. *See* Scope Comment Responses at A-13 to A-14; *see also* GPP at 1. In that event, *all* the benefits of the GPP would accrue to one party – the patron not only of the former Governor, who proposed the original plan, but of the project's current financing consultants, Ernst & Young.

and upkeep of the new station facilities, are subject to further collaboration with the involved railroad entities

GPP at 16.

A year later, ESD estimates that the cost-sharing arrangement would be 50 percent from the federal government, 25 percent from New Jersey, and 25 percent from New York. Accepting for the sake of argument that this would be the split, and that the price tag for the project as a whole would be \$30 to \$40 billion, then the allocation would be \$15 to \$20 billion from the feds, and \$7.5 to \$10 billion from each of the two states.

New York's share could be reduced further if the project receives a grant under the federal Capital Investment Grant ("CIG") program. According to the FTA, that would increase the federal share from 50 to 60 percent, lowering the New York and New Jersey shares to 20 percent each. In other words, New York's responsibility would drop from \$7.5 to \$10 billion to \$6 to \$8 billion. *See* ESD, *Empire Station Complex Funding and Financing Considerations*, presented to Community Advisory Committee Working Group (May 25, 2021) ("ESD Funding PowerPoint"), esd.ny.gov/sites/default/files/CACWG-Meeting-5-Presentation-Funding-and-Financing-Overview-EY-05-25-21.pdf, at 15.

But again, this is all up in the air. The CIG program is highly competitive, with strict design and engineering requirements.¹⁰ It also depends on annual Congressional appropriations. The application process takes around six years, and the FTA does not make a final decision until just before construction is scheduled to start. Moreover, the applicant must demonstrate a firm financial commitment to pay the rest of its share of project costs, and ESD's current plan offers no such commitment. (The Tunnel application is now on its fifth attempt to meet that requirement.) And New Jersey still has not committed to the 50/25/25 split.

For the purpose of this funding analysis, however, we will accept ESD's best-case scenario – that (1) the total cost of the project will be somewhere between \$30 and \$40 billion, (2) the FTA will issue the hoped-for grant, (3)

¹⁰ The Penn project would be competing with other New York and New Jersey projects, including the \$10 billion New Jersey-New York Cross Harbor Freight Tunnel, the \$6.9 billion Phase 2 of the Second Avenue Subway, and the \$2.7 billion plan for a Brooklyn-Queens street car system.

New Jersey will pay its share, and therefore (4) New York will be responsible for \$6 to \$8 billion.

Thus far, however, the *only* financial commitment from New York is the Legislature's \$1.3 billion budget appropriation last year. That leaves the Override.

C. Revenue from the Override

ESD never attempts to estimate the total revenue the Override would produce over the life of the project. The only number it offers is a best-case estimate of the money that would come in before 2030, *i.e.*, the year ESD's partners are projected to finish building Penn Station and the Tunnel: roughly \$2 billion. See ESD Funding PowerPoint at 18. This number is far too low to justify so consequential a rezoning. As we will explain, it is also vastly inflated; the real number is less than half that.

It is a measure of how casually the agency approaches the financing question that it has not even decided on the *sources* of the revenue. The DEIS states:

ESD and its partners are *exploring* multiple funding options, including Payments In Lieu of Taxes (PILOTs), sale of development rights, the sale of bonds, grants, and/or other mechanisms that *could* be utilized to finance and support the Proposed Project. In addition, the development of the commercial buildings, and the site-specific public realm and transportation improvements, would be privately funded with developer equity and private financing, but various value-capture structures to *potentially* offset some of the cost of the improvements are being *explored*.

DEIS at S-20 (emphasis added); *see also* GPP at 16; DEIS at 2-7.

A year later, the agency has made little progress. In a presentation by its financing consultants, Ernst & Young, to the Community Advisory Committee Working Group (the "CACWG"), ESD listed five "categories of revenues [that] *could* be used toward the required NY contribution to the Penn rail projects." ESD Funding PowerPoint at 16 (emphasis added). It is

bewildering that, after all the reports and consulting contracts, ESD still does not have a revenue plan for the project.¹¹

In lieu of a revenue plan, ESD pitches five hypothetical sources:

1. Land Value Payments ("LVPs") – by the developers of Sites 1-3, based on the total value of the properties.
2. Additional Development Rights ("ADR") payments – by Vornado for Sites 4-8, based on the *increase* in the value of the properties as a result of the Override.
3. Payments in Lieu of Taxes ("PILOTs") – recurring payments by all developers.
4. Payments in Lieu of Mortgage Recording Taxes ("PILOMRTs") – one-time payments by all developers.
5. Payments in Lieu of Sales Taxes ("PILOSTs") – one-time payments by all developers.

Again, the only number the agency hazards is a best-case estimate of the revenue these sources together would generate before 2030 – around \$2 billion.

One of the mysteries of ESD's plan is that, on the one hand, it insists that the reason for going forward with the Override immediately, before conducting a comprehensive environmental review of the Master Plan, is that the other agencies need the money to get started with the station. *See* ESD Funding PowerPoint at 8. On the other hand, ESD refuses to demand any payments upfront. Apparently ESD would not even *begin* negotiating the price of the development rights until the owner was ready to proceed with the project.¹²

¹¹ As we pointed out earlier, Vornado actually split the cost of hiring Ernst & Young, creating obvious conflicts of interest for both ESD and the consulting firm. The terms of the consulting contracts are set out in the minutes of two meetings of the ESD directors. *See* Minutes (Mar. 26, 2022) at 356, esd.ny.gov/sites/default/files/news-articles/032620-ESD-Board-Materials-v2.pdf; Minutes (July 7, 2022) at 300, esd.ny.gov/sites/default/files/news-articles/071521-ESD-Board-Materials-v2.pdf.

¹² This is either an unsavory giveaway or a questionable bet, *i.e.*, that Vornado and the other developers would not build until the market turned around significantly.

Given the slow pace of New York City development under even the most hospitable economic conditions and given, inevitably, further delays caused by the currently inhospitable ones, this would likely be a long time. As we will explain, it is virtually certain that *none* of the Override revenue would be available to pay the bills for Penn Station. If the agencies are intent on moving ahead with the station now – as they should be – then with or without the Override, New York would have to finance the entirety of its share of costs (less the \$1.3 billion appropriation).

Nor is there the silver lining that approving the GPP today would reduce ESD's debt service. Whether the agency granted the additional development rights today or in another few years would have *no* bearing on when the owners actually built the towers – their schedule would be dictated by the economy, not the zoning – and thus no bearing on when ESD began receiving revenue to repay the debt.

This schedule also supplies a decisive argument against segmenting the SEQRA review. A proper environmental review of the Master Plan would take no more than a couple of years; it would be completed long before the owners were even close to moving ahead with their towers. Time is in no way of the essence.

1. The ESD Schedule

Even if we were to accept for the sake of argument ESD's unrealistically optimistic timetable, the revenue would come in too late. At the CACWG meeting on May 25th, Ernst & Young acknowledged that "[u]nder a best-case scenario, *up to* two sites [Sites 1 and 7] are likely to *begin* construction before 2030." See Community Advisory Committee Working Group, *Meeting Minutes* (May 25, 2021) ("CACWG Minutes"), esd.ny.gov/sites/default/files/CACWG-Meeting-5-Minutes-05-25-21.pdf, at 8 (emphasis added).

And this is truly a best-case scenario. According to Ernst & Young, the Site 7 money – an ADR payment from Vornado – would arrive prior to 2030 only if construction began in 2022, a highly unlikely prospect. The Site 1

Payments would be higher at that point because, under the plan, they would be based on then-current property values. The higher the values, the higher the payment. Maybe. But how long would the agency have to wait? And is the return of a healthy midtown market really a sure thing in the foreseeable future?

money – an LVP from an as-yet undetermined developer – would arrive before 2030 only if (1) the FTA promptly completed its NEPA review and approved the location of the new tracks; (2) ESD acquired the site, by negotiated sale or eminent domain, and sold it to a developer through a competitive RFP; and (3) the developer began construction in 2029. *Id.* at 8-9. An even less likely prospect. (If any Site 1 revenue did arrive before 2030, it would be *just* before 2030.)

And how much revenue would this be?

The method for calculating land value in New York City is to multiply the property's Zoning Floor Area ("ZFA") – the portion of floor area included in determining a building's maximum permitted bulk – by the price per square foot of ZFA.

In this instance, there is an unusually good comparable for the ZFA price/SF: the 2020 transfer of a parcel *within Site 1*, 320 West 31st Street. According to an appraisal conducted by one of the premier firms in the City, Newmark Valuation and Advisory, the price/SF is approximately \$550:

	
Address	320 West 31st Street
Neighborhood, City	Midtown, New York
Proposed Use	Office (Leasehold)
Buyer	Maple 1 Farley Owner, LLC c/o Normandy Real Estate Partners
Seller	320 West 31st Associates, LLC c/o Onyx Equities
Interest Conveyed	Fee Simple
Parcel ID	754; 51
Zoning	C6-3X; General Central Commercial District
Floor Area Ratio	9.0 FAR
Sale Date	October 2020
Purchase Price	\$129,000,000
Lot Size	25,922 SF
Maximum ZFA (HBU)	233,298 SF
Price Per ZFA	\$552.94

Analysis by Newmark Valuation and Advisory

The ZFA of Site 1 would be 1,071,081 SF, so at \$550/SF, the payment would be around \$589 million.¹³ But to calculate what ESD would actually make from the sale and leaseback of the site, it is necessary to then subtract what it would have paid the current owner to acquire the property. ESD would *net* only the value of the additional square footage from the Override, known as the "Incremental ZFA." Here that is 518,196 SF, so at \$550/SF, the net would be \$285 million.

Vornado's ADR payment for Site 7 would be based on only the Incremental ZFA, since it already owns the site and obviously would not have to pay for the development rights it already has. The Incremental ZFA is 868,000 SF, so at \$550/SF, the payment would be \$447 million.¹⁴

In addition to these payments, Ernst & Young states that it is at least possible that ESD would receive a PILOMRT and a PILOST from Site 7 before 2030. See CACWG Minutes at 8-9; ESD Funding PowerPoint at 18. It is difficult to make a precise estimate of such payments, but a reasonable one would be four percent of the value of the property. For Site 7, that would be four percent of \$1.17 billion (not just the incremental value of the Override), or roughly \$47 million.

Adding all three numbers, we get a best-case scenario of \$809 million in pre-2030 revenue:

PRE-2030 REVENUE (\$550/SF)

Revenue Source	Price (in millions)
Site 7 ADR	\$ 477
Site 1 LVP (less acquisition cost)	\$ 285
Site 7 PILOMRT/PILOST	\$ 47
TOTAL	\$ 809

Spread out over eight years, from today to 2030, that is a song – and a far cry from the \$2 billion that ESD estimates. See ESD Funding PowerPoint at 18.

¹³ The ZFA figures are explained in the Appendix below.

¹⁴ If past ESD projects are any indication, the agency would be selling the air rights for considerably less than fair market value.

2. The Real Schedule in an Uncertain Market

An honest timetable would be worse, and perhaps *exponentially* worse, since ESD has declined to impose any deadline for starting construction. In its response to the public comments on the Draft Scope, ESD made clear that it preferred to let owners be guided by only their own interests:

[T]here is no plan to construct empty office buildings in the hope that demand for commercial leases will materialize after the buildings are in place; the construction of an office building typically occurs *after the developer is satisfied* that sufficient demand exists for a substantial portion of the new building's office space. If demand for office space within the Project Area is *insufficiently robust* to warrant the completion of each of the Proposed Project's office buildings by the 2038 completion year assumed for analysis purposes, then construction and occupancy of the Proposed Project office buildings would be deferred.

ESD Scope Responses at A-9 (emphasis added).

We already know that there is an oversupply of commercial space in the immediate area, and we already know that demand will be "insufficiently robust." It would be years before the projects moved forward and began generating money for the Master Plan. It is dishonest for the DEIS to state that "the assumption that the Proposed Project would be completed expeditiously represents a reasonable worst-case scenario for analysis." DEIS at 2-17; see *id.* at S-25.

On his Q4 earnings call last week, Vornado's chairman acknowledged that the midtown office market would not be rebounding anytime soon. He sheepishly admitted that the company would not go forward with its plan, announced in April, to issue stock to track development in the Penn District. See [crainsnewyork.com/commercial-real-estate/vornado-postpones-stock-track-development-around-penn-station](https://www.crainsnewyork.com/commercial-real-estate/vornado-postpones-stock-track-development-around-penn-station).

ESD acknowledged the same thing in December, rescinding its RFP for the Javits Center Site K, immediately north of Hudson Yards. According to the Acting Commissioner, ESD needed to "reassess development priorities and solicit more input from the local community and other stakeholders." Statement of Acting Commissioner and President Hope Knight (Dec. 21, 2021), esd.ny.gov/esd-media-center/press-releases/statement-esd-acting-commissioner-president-ceo-designate-hope-knight-regarding-rescinding-rfp-javits-site-k. The

agency should exercise the same judgment here, heeding the breadth of local opposition to this project and the increasingly persuasive data that the project's assumptions about the post-COVID commercial market are unsound.

One important factor in this market is changes in the nature of the workplace. An exhaustive April 2021 analysis of Work from Home ("WFH"), prepared by professors at Stanford and the University of Chicago, surveyed more than 30,000 Americans and concluded that the economy will definitely not return to the *status quo ante*:

Much of the COVID-induced shift to WFH will stick long after the pandemic ends. Using data from the ongoing Survey of Working Arrangements and Attitudes, we project that American workers will supply about 20 percent of full workdays from home in the post-pandemic economy, four times the pre-COVID level.

Jose Maria Barrero, Nicholas Bloom, and Steven J. Davis, "Why Working from Home Will Stick," *National Bureau of Economic Research Working Paper Series* (April 2021), www.nber.org/papers/w28731, at 30. With respect to major cities, the report continued:

Higher levels of WFH will present pointed challenges for urban areas, especially cities with high rates of inward commuting by well-paid professionals in the pre-COVID environment. As these workers cut back on commuting, they will spend less on food, shopping, personal services, and entertainment near workplaces clustered in city centers.

Id. at 31. The study estimates that the decline in annual spending in Manhattan will be at least \$12 billion, a reduction of 13 percent. *Id.* at 27.

According to a November 2021 survey by the Partnership for New York City, more than a third of the 188 big New York City employers in the survey expect their office needs to decline over the next five years. "Post-pandemic, remote work is here to stay," said Kathryn Wylde, president and CEO of the Partnership for New York City, the City's leading business group. "There is going to be a permanent relook at keeping offices and jobs in New York City." [cnbc.com/2021/11/10/only-28percent-of-manhattan-workers-are-back-in-the-office.html](https://www.cnbc.com/2021/11/10/only-28percent-of-manhattan-workers-are-back-in-the-office.html).

Already, office vacancy rates in the City are at a 30-year high of 18.6 percent, and the value of the City's commercial real estate has fallen by \$28.6

billion, or 16.6 percent, according to a recent report by the New York State Comptroller's office. See Comptroller Report at 11. Hudson Yards has added more than 30 million square feet, and according to Newmark's fourth quarter report, another 9.7 million square feet are now under construction on the Far West Side. See Newmark Research, "Manhattan Office Market – 4Q 2021" (Jan. 2022), nmrk.com/insights/market-report/manhattan-market-reports, at 2.

But ESD just barrels past these facts: "[D]ata from recent years prior to the COVID-19 pandemic is expected to be reasonably representative of the economic conditions after the pandemic subsides and the region reopens." Scope Comment Responses at A-10. The agency's own turnabout on Javits Site K gives the lie to that statement.

ESD's timetable not only undermines its claim that the project would produce sufficient revenue for Penn Station; it also violates SEQRA. In a 2012 lawsuit successfully challenging another phase of ESD's Atlantic Yards project, the Appellate Division, First Department, held that a lead agency may not base its EIS on a construction schedule that it knows to be inaccurate. In 2006, ESD had issued a final EIS setting a 2016 "build year" for the "substantial operation" of 16 high-rise residential and commercial buildings surrounding the arena. See *Develop Don't Destroy (Brooklyn) v. Empire State Development Corp.*, 94 A.D.3d 508 (1st Dep't 2012). Two years later, though, the Great Recession arrived, and the developer prevailed on the agency to issue a modified GPP, giving it until 2035 to substantially complete construction.

ESD refused to prepare an SEIS reconsidering the project's impacts in light of the revised schedule, asserting conclusorily that the impacts would be similar. The court held that the agency's use of the obsolete schedule "lacks a rational basis and is arbitrary and capricious," and ordered it to prepare an SEIS reconsidering the SEQRA impact categories based on a more accurate timetable. *Id.* at 510.

Develop Don't Destroy is directly on point. Here, as there, the agency knows that the EIS's build year projections are inaccurate, and yet refuses to revise its analysis to reflect the real schedule. Indeed, the facts against ESD are even stronger in the present case. In *Develop Don't Destroy*, the developers at least had a deadline; here, they have none.

ESD recognizes the consequences of the delays:

The completion of the Proposed Project at a later date would delay the delivery of some of the project benefits such as revitalization of the Project Area, economic growth and tax

revenue through job creation and economic activity, implementation of transit and public realm improvements, and the Proposed Project's support for the reconstruction and expansion of Penn Station.

Id. at 2-18. In other words, the delay would jeopardize just about every benefit of the plan – most pointedly, revenues.

As the passage makes clear, however, the loss would not only be in revenue; it would be in the plan's in-kind benefits as well. Because the proposed rail and transit entrances and accessways would be *inside* the new towers, these on-site improvements would not be built until the towers themselves were built. (The GPP imposes no obligation on the developers to make any of these improvements before then.) Similarly, many of the promised public realm improvements – including the through-block public plaza on Site 2 – would have to await the demolition of the existing buildings and the completion of the towers.

In the end, to make up the inevitable revenue shortfall, ESD would have to borrow – issuing bonds and, ideally, securing low-interest loans under the federal Transportation Infrastructure Finance and Innovation Act ("TIFIA"), used for Moynihan Train Hall, or the federal Railroad Rehabilitation and Improvement Financing ("RRIF"), intended to be used for the Tunnel. But getting a loan from either program is hardly a sure thing, and TIFIA requires an investment-grade rating. As to how much the loan would be, ESD has provided no estimate.

* * *

It is telling that ESD never offers an estimate of the total revenue the project would generate. It seems safe to infer that either (1) it has not bothered to find out or (2) it realizes that it would not be enough to justify the social costs of the project. Neither is an adequate explanation.

IV. THE DEIS FAILED TO PROPERLY CONSIDER THE ENVIRONMENTAL IMPACTS OF THE OVERRIDE

A. Three Errors

ESD's consideration of the non-financial elements of the project is equally flawed. The statute requires that lead agencies take a "hard look" at all relevant areas of environmental concern and make a "reasoned elaboration of the basis for its determination." *Akpan v. Koch*, 75 N.Y.2d 561, 570 (1990)

(quoting *Jackson v. Urban Development Corp.*, 67 N.Y.2d 400, 417 (1986)). As we explain below, ESD fails to meet that standard in three independent ways.

First, the DEIS itself fails to take a hard look at the potential impacts of the original plan.

Second, obviously, the DEIS fails to take a look at the potential impacts of the revisions announced by Governor Hochul nine months later. These revisions are substantial, *e.g.*, redistributing the massing across the project area, converting 31st Street between 7th and 8th Avenue into a shared street, shuffling the locations of open spaces and transit access points, and adding housing (but not nearly enough). At a minimum, the agency must prepare a Supplemental EIS ("SEIS") for the changes that meet the SEQRA test: They are "important" and "relevant," and may cause "significant adverse environmental impacts not addressed, or inadequately addressed, in the EIS." 6 N.Y.C.R.R. § 617.9(a)(7)(i), (ii).

Furthermore, the State's *SEQR Handbook* requires that the agency provide a *written* evaluation of its decision whether or not to conduct an SEIS:

This evaluation may take the form of a comparative memorandum. For more complex changes, DEC recommends the evaluation be further supported by use of a revised EAF [Environmental Assessment Form] when making this determination. Should the lead agency determine that a supplemental EIS is required, it must then follow the full SEQR procedures, including completion of a revised EAF.

DEC, *SEQR Handbook* at 138; *see generally* Michael B. Gerrard, Daniel A. Ruzow & Philip Weinberg, *Environmental Impact Review in New York* (rev. 2017) ("Gerrard Treatise"), § 3.13(4). In a challenge to ESD's alterations of the Brooklyn Bridge Park project plan, the court wrote:

[I]f specified changes occur which will have a significant adverse environmental impact, the agency must determine whether a supplemental EIS (SEIS) is needed. The agency reaches this decision in reliance on a technical memorandum which assesses the impact of the changes.

Brooklyn Heights Association v. Urban Development Corp., 2018 N.Y. Misc. LEXIS 475, *14-15 (Sup. Ct. N.Y. Co. 2018); *see Develop Don't Destroy*, 94 A.D.3d at 511. ESD has prepared no such document.

According to the deck that ESD presented at the public hearing on December 8th, it would address the new issues in a series of "updates" incorporated into the final EIS – including an analysis of changes in density and use, a new "qualitative assessment" of the 31st Street closing, "updates to the future No Action condition," and "consideration of the appropriate analysis year." See ESD, *Penn Station Area Redevelopment Project* (Dec. 8, 2021) ("Public Hearing PowerPoint"), at 15. These are properly described as a *de facto* draft SEIS. The leading SEQRA treatise, *Environmental Impact Review in New York*, states that "if the supplemental EIS is prepared *after* [or contemporaneous with] the FEIS, then once public comments are received on the 'draft' supplemental EIS, a 'final' supplemental EIS responding to all substantive public comments received should be prepared." Gerrard Treatise § 3.13(4).¹⁵

Third, the DEIS fails because it considers only the Override, disregarding the additional environmental impacts of the Master Plan. The statute obligates agencies to cast as wide a net as possible: "[T]he lead agency must consider reasonably related long-term, short-term, direct, indirect and cumulative impacts, including other simultaneous or subsequent actions which are . . . included in any long-range plan of which the action under consideration is a part." 6 N.Y.C.R.R. § 617.7(c)(2)(i); see *Save the Pine Bush v. Albany*, 70 N.Y.2d 193, 205-06 (1987); *Chinese Staff & Workers Association v. New York*, 68 N.Y.2d 359, 366-68 (1986). It is immaterial that an action's own impact may fail to qualify as significant if, "when considered cumulatively, [the total impact of the related actions] would meet one or more of the criteria" for significance. 6 N.Y.C.R.R. § 617.7(c)(1)(xii). When the Master Plan's impacts are added to those of the Override, they are vastly more significant.

This is the most consequential of the three errors. The losses from segmentation are global, and an SEIS cannot adequately address them. ESD needs to start over.

¹⁵ The same is true under the UDC Act. Governor Hochul's revisions have rendered portions of the GPP obsolete, and the statute requires that, in such a case, the original plan be replaced by one that fully describes the current project. In a challenge to revisions to the Brooklyn Bridge Park plan, the court put the point plainly: "Changes to the plan require a modification to the GPP." *Brooklyn Heights Association v. Empire State Development Corp.*, 58 Misc. 3d 1222(A) (Sup. Ct. N.Y. Co. 2016).

The following sections discuss six particular impacts of the plan, drawing on the technical memoranda attached to these comments:

1. Land Use, Zoning, and Public Policy
2. Urban Design and Visual Resources
3. Transportation
4. Air Quality
5. Noise
6. Water and Sewer Infrastructure

There are other significant impacts as well, which are detailed in the comments of civic organizations with special expertise in these areas. The National Trust for Historic Preservation and the New York Landmarks Conservancy, for example, have submitted comments on the project's impact on historic and cultural resources. The Municipal Art Society of New York has commented on open space and the public realm, and the chair of the Alliance for a Human-Scale City has commented on socioeconomic conditions. We will not repeat the valuable points they make.

B. Land Use, Zoning, and Public Policy

The technical memorandum on Chapter 3 of the DEIS, "Land Use, Zoning & Public Policy," was prepared by the urban planning and zoning firm of George M. Janes & Associates and is attached as Exhibit B ("Janes Memorandum"). Among the errors it identifies is a genuinely foundational one: the failure of the DEIS to analyze the Override – stripping the City of its jurisdiction over the zoning of this critical business and transportation district – as itself a significant adverse impact under SEQRA.

New York courts have long held that the zoning authority is "one of the core powers of local governance." *Wallach v. Town of Dryden*, 23 N.Y.3d 728, 743 (2014). For that reason, the UDC Act specifically requires ESD to "work closely, consult and cooperate with local officials and community leaders at the earliest practical time." UDC Act § 16(1).

While the statute authorizes an agency to override local zoning laws, it can do so only after consultation with local officials, and only if it would not be "feasible or practicable" to comply with the laws. *Id.* at 16(3). Here, ESD made its decision *before* engaging in serious conversation with the City, and never made the case that it was impossible to accomplish its stated objectives under the current zoning laws, or with amendments that were less radical than the Override. Understandably, the City Planning Commission declined to recommend the plan.

Beyond these two UDC Act requirements, SEQRA imposes a third: The DEIS must fully evaluate and mitigate *the override itself* as an adverse environmental impact, which ESD never does. Among its most significant omissions is any consideration of how engaged the City has been in exercising its zoning authority over this particular district.

This is not a case where the goals of the local laws are undefined, or where the laws are vestigial or obsolete. In those instances, an override would require less scrutiny. But over the past 40 years, calibrating the district's evolving social and economic needs, the City has upzoned within this project area no less than five times: in 1982 (Special Midtown District), 1999 (Chelsea Rezoning), 2001 (Penn Center Subdistrict of Special Midtown District), 2005 (Special Hudson Yards District), and 2010 (Hotel Pennsylvania).

As the following diagram illustrates, nearly every parcel in the project area was rezoned either once (blue) or twice (red) since 1982:

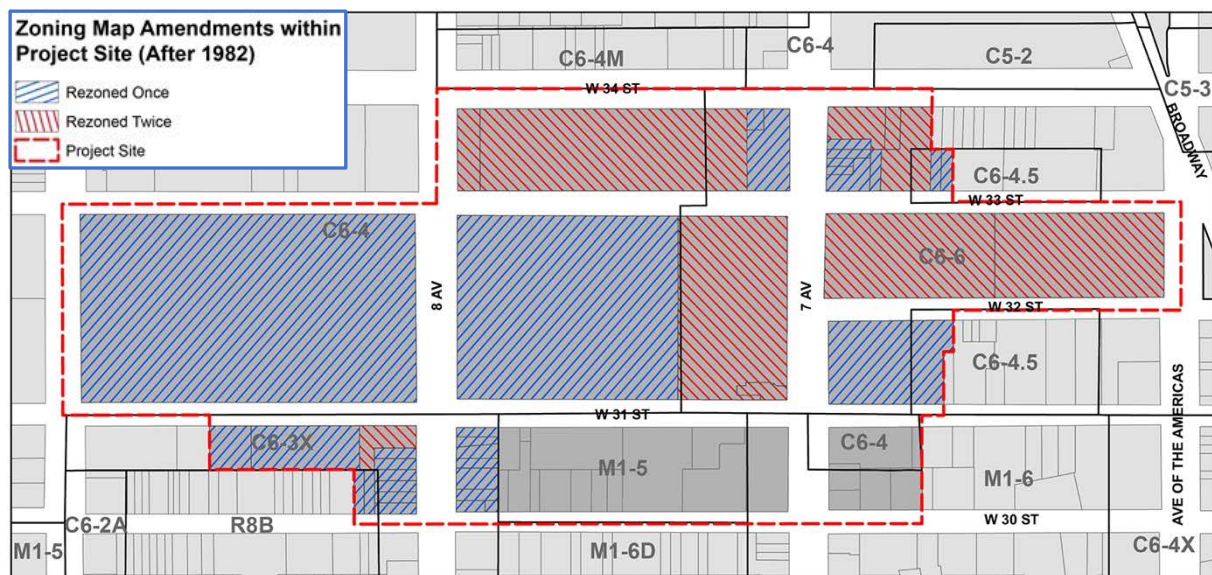


Diagram by George M. Janes & Associates

In addition, the City issued numerous special permits, including significant ones for Madison Square Garden (1963, 2013), the Hotel Pennsylvania (2010), and Penn 1 (2019).

In each case, the proposed zoning amendment or special permit was reviewed under the City's Uniform Land Use Review Procedure ("ULURP"), with participation from the public, the affected Community Boards, the

Borough President, the Planning Commission, the City Council, and the Mayor. In each case too, the Commission issued a detailed report describing its planning and policy objectives. Read together, the reports describe an iterative process by which the City has encouraged the creation of a lively, economically productive neighborhood. They confront precisely the issues that ESD now confronts, albeit with different solutions, grounded in the Commission's unique local knowledge.

1. *Hotel Pennsylvania.* In 2010, the City rezoned Block 808 (Sites 7 and 8) to C6-6, one of New York's highest density zoning districts, with a floor area ratio ("FAR") of 15. In addition, it granted a special permit to the owner of the hotel lot, Vornado, for an even higher FAR – 18 – in exchange for certain transit circulation and access improvements.

The grant was precisely what Vornado had asked for – the incentive it claimed to need in order to go forward with the redevelopment of the property. As the Planning Commission wrote in its report on the application, "Here the rezoning permits the site to take full advantage of its transit-rich locations in a manner consistent with the transit-oriented development policies discussed above." City Planning Commission Report, C 100049 ZSM (July 14, 2010), nyc.gov/assets/planning/download/pdf/about/cpc/100049.pdf at 52. But also, in the judgment of the Commission, the 18 FAR limit "minimized or avoided to the maximum extent practicable" the adverse impacts of greater density. *Id.* at 54.

Alas 12 years later, there is no new building, and Vornado has let the special permit expire. Why? Because the Override that Vornado negotiated with former Governor Cuomo is a far better deal. It would grant the developer a 33 FAR, or close to double what the special permit would have allowed. It is one of the ironies of ESD's proposal that it has actually *discouraged* the development of the site under the current zoning (though we would strongly oppose the demolition of this historic hotel). See Janes Memorandum at 15-17.

2. *Special Midtown District.* The Override runs roughshod over the City's 1982 law creating the Special Midtown District. One of the law's key planning objectives was to set performance-based bulk controls to "insure light and air for Midtown streets while leaving the architect wide latitude for building design." City Planning Commission Report, N 820253 ZRM (Mar. 16, 1982), nyc.gov/assets/planning/download/pdf/about/cpc/820253a.pdf, at 3; see Zoning Resolution §§ 81-26, 81-27. These controls were an essential element of the district plan. When the City Council reviewed and amended the law in 2017, it specifically retained this concept of daylighting standards.

The Override, however, removes the concept entirely. It would allow towers to cover between 60 and 70 percent of the zoning lot at *75 percent* of the building's height, nullifying the statute's daylight performance standards. The result would be exceptionally dark streets, resembling the Lower Manhattan blocks with their vertical pre-1916 towers. *See* Janes Memorandum at 17-19.

3. *Chelsea Rezoning.* The 1999 rezoning of the Chelsea District, which contains a portion of Site 1, replaced "height factor" zoning – a formula intended to encourage thinner, taller buildings surrounded by open space – with "contextual" zoning more consonant with the high-coverage, loft-style buildings of the district. At the same time, the new rules upzoned certain areas to encourage new housing and nonresidential development along the Avenues. Again, these were City policy judgments based on a long history of studying and regulating the neighborhood (and on the original 197-a plan created by the community itself). The Planning Commission Report explained: "[T]he Commission believes that, by mapping contextual zoning districts, increased densities can be achieved without impairing neighborhood character." City Planning Commission Report, N 940614 NPM (Apr. 10, 1996), nyc.gov/assets/planning/download/pdf/community/197a-plans/mn8_chelsea_197a.pdf, at 15. In this instance too, the Override would discard the local plan, allowing an unlimited-height tower with an FAR of roughly 21, unlike anything in the district. *See* Janes Memorandum at 19.

4. *Hudson Yards.* The 2005 rezoning of Hudson Yards reflected a judgment by the City about precisely where on the Far West Side a new high-rise, mixed use neighborhood should be located. Although it upzoned the Madison Square Garden site to 19.5 FAR, the remainder of the changes were in a low-rise industrial neighborhood farther west. The Planning Commission made a deliberate choice *not* to rezone Block 780, *i.e.*, Sites 2 and 3. It also chose to make only modest changes in zoning on the north side of Block 754, where Site 1 is located, directly south of the Farley Building: "The proposed requirements for a 60 to 120 foot streetwall height limit, and maximum building height of 160 feet are appropriate and would control building heights across from the historic Farley Post Office building." The Override, on the other hand, would *double* the allowable density of Site 1 and allow towers of unlimited height, eviscerating the existing regulations. *See id.* at 21-23.

Due consideration of all these zoning amendments is critical to any SEQRA review of land use, zoning, and public policy. They reflect the City's painstaking development of its plan for the district. An override as sweeping as this one – and as indifferent to the local policies it nullifies – erodes the very

principles of home rule set out in the State Constitution and Municipal Home Rule Law. New York courts have long affirmed that cities must retain the primary authority to regulate their land, and the SEQRA corollary is that any State interference with this authority must be scrutinized and mitigated to the fullest extent practicable.¹⁶

C. Urban Design and Visual Resources

The technical memorandum on Chapter 9 of the DEIS, "Urban Design and Visual Resources," was prepared by Mr. Janes and Brian Heagney and is attached as Exhibit C (the "Janes/Heagney Memorandum"). Before Mr. Janes started his consulting firm, he was the executive director of New York City's Environmental Simulation Center, a pioneer in visualization. Mr. Heagney is an associate of Mr. Janes's firm and an expert in the use of 2D and 3D tools to create visualizations, simulations, and animations for architecture, urban planning, and gaming.

Their memorandum illustrates how dramatically the DEIS underestimates the project's likely impacts on urban design – the pedestrian experience of the area – by presenting inaccurate photosimulations of the proposed towers. The errors so consistently favor ESD's plan that one can only conclude that they were deliberate, an effort to contrive the claim that the buildings would result in "no significant adverse impacts related to urban design." DEIS at 9-2. According to the memo, these manifold errors render the report's conclusions "unusable." Janes/Heagney Memorandum at 1.

Photosimulation is a technique that overlays a digital 3D model of the proposed building onto a photograph of the existing conditions at the site. Inside the virtual model is a virtual camera, simulating the real camera that took the photo. To create an accurate photosimulation, the two cameras must "match," which is done by aligning the dimensions and geographic location of certain reference points in the photograph – a mailbox, a traffic light, the corner of a neighboring building – with the same reference points in the model. Properly done, the process will produce a reproducible photomontage. The photosimulations here, however, are rife with camera-match errors, and the consistent effect is to understate the scale and looming impact of the towers.

¹⁶ Other zoning amendments – the creation of the Old Navy and Penn Center Subdistricts, for example – relate principally to signage, not bulk. Although signage has generally not received the same attention that density has received, it is an essential element of neighborhood character. See Janes Memorandum at 19-20.

A second significant problem is the inconsistent application of light levels and shadows. When they are drawn lighter than those of the neighboring buildings, as they are here, the proposed towers appear far less intrusive than they would actually be.

The work is rife with other errors and misrepresentations: omitting foreground elements that provide scale for the viewer, retaining buildings that would in fact be demolished under the plan, and conjuring beautification projects – bright open spaces, for example – that are not actually part of the plan.

In a 146-page appendix, the Janes/Heagney Memorandum enumerates errors in every one of the photosimulations in the DEIS. We'll offer just two illustrative examples of camera match and light/shadow errors.

Here is a view of the proposed towers on Sites 1-3 from West 33rd Street and Ninth Avenue, looking southeast. The image on the left is from the DEIS; the one on the right is the corrected Janes/Heagney version:



Viewpoint 16 Proposed Action (DEIS)



Viewpoint 16 Proposed Action (GMJ&A)

The DEIS image significantly understates the size of the proposed towers (see red arrow), and attempts to further soften the impact by shading them more lightly than the other objects in the shot.

Here is the intersection at 32nd Street and Seventh Avenue, looking northwest:



Viewpoint Proposed Action (DEIS)



Viewpoint Proposed Action (GMJ&A)

Again, the DEIS's photosimulation, on the left, reduces the size of the towers and fails altogether to match the light levels and shadows of the surrounding buildings. They appear almost to dissolve into the sky.

* * *

Governor Hochul's November 10, 2021 presentation fails to include any new photosimulations based on the revised plans. All it offers is snapshots from a 3D model, intended to demonstrate that, under the new plan, the Empire State Building would be visible looking east on 33rd Street.

The DEIS had included a Viewpoint 11 on 33rd Street from Ninth Avenue, which also suggested that the building would be visible from the street. See Hochul PowerPoint at 33-42. But that photosimulation was inaccurate, as Mr. Janes and Heagney make clear with their corrected version. See Janes/Heagney Appendix. ESD's new snapshots also suggest that the Empire State Building is visible, but the viewpoint is *not* Viewpoint 11 – at the *center* of the street on *Ninth* Avenue. Rather, the snapshots are at a viewpoint on the south side of the street, much closer to Eighth Avenue. ESD may have found a spot on 33rd Street that serves its purposes, but it is not the spot it chose for the DEIS – the only proper apples-to-apples comparison. From the actual Viewpoint 11, the revised building on Site 5 would still erase the Empire State Building – as it would from many other locations along the 33rd Street corridor. See Janes/Heagney Memorandum at 6-7.

As for the effect of the revisions on the 15 other viewpoints in the DEIS, ESD says nothing.

D. Transportation

An analysis of Chapter 14 of the DEIS, "Transportation," is set out in the technical memorandum prepared by Dr. Kevin Dwarka and attached as Exhibit D ("Dwarka Memorandum"). Dr. Dwarka is a land use and economic consultant who has held senior transportation planning positions at the MTA–New York City Transit.

As he explains, the agency's first error is the segmentation of the Master Plan. The GPP is a transportation initiative as well as a land use initiative. It provides a new system of rail and subway feeders – new entrances and stairways, widened transit platforms, and a second underground east-west corridor between 7th and 8th Avenue. It is senseless to consider the project separately from the Penn Station project:

Each and every one of the transportation improvements will impact how passengers access Penn Station and use it as a means for reaching destinations in the surrounding area. None of these transportation improvements, however, have been proposed in direct relationship to the transportation elements within Penn Station or Penn Station Expansion because those plans are still unfolding.

Dwarka Memorandum at 4.

Thus we return to the original problem: *We don't know the first thing about the new Penn Station.* At the conclusion of a proper review of the Reconstruction, the agencies may decide to build the station at one of any number of locations – along Seventh Avenue; across 31st Street; where Madison Square Garden now stands; or exactly where ESD has proposed to put it, but with different access points. Each of these solutions would bring different flows, connections, exits, vertical circulation, and capacity, and would render worthless many of the particular transportation improvements proposed in the GPP.

Even as an analysis of a single, independent transportation project, the DEIS is insufficient. Over and over, ESD minimizes significant traffic, transit, and pedestrian impacts.

1. Traffic Impacts. The DEIS acknowledges that fully 46 percent of the 108 intersections it studied would suffer significant adverse impacts in 2038, and the overwhelming majority of those impacts would be from the towers. The only mitigation the agency proposes – signal timing and geometric

modifications – could not address the essential problem, which is infrastructural barriers. According to the DEIS, mitigation would be insufficient at 72 percent of the weekday AM peak intersections, and at 71 percent of the weekday PM peak intersections.

Ludicrously, the DEIS proposes that the developers themselves undertake a transportation plan to evaluate the additional demand from their projects, and to then propose solutions. Putting aside the obvious conflicts of interest, when exactly would they do this? After ESD approves the Override? The very purpose of the evaluation is to determine whether ESD should approve the plan in the first place.

2. Transit Impacts. The DEIS neglects to consider at least a dozen local, interborough, and regional bus routes, based on the unsubstantiated and utterly implausible assumption that they would generate fewer than 50 peak riders in one direction. Regarding subway routes, the DEIS admits that the volume of passengers on six subway lines would exceed capacity by 2038, in large part because of the redevelopment plan itself, not because of any projected increase in passengers generally. To be sure, the MTA could mitigate the line haul impacts by adding trains to the schedule, but it could not mitigate other impacts – station circulation problems with the stairways, escalators, passageways, and control areas. According to the DEIS's reasonable worst case scenario, the 34th Street/Herald Square and 34th Street/7th Avenue stations would experience a "significant degradation in performance." Dwarka Memorandum at 9.

3. Pedestrian Impacts. The DEIS foresees 20,000 to 22,000 new pedestrians flowing through the area in 2038, an increase of 15 to 18 percent over the No-Action Scenario. Even with the proposed setbacks, there would be significant adverse impacts at 32 percent of the sidewalks, 19 percent of the corners, and 81 percent of the crosswalks. And again, it could be far worse. There remains considerable uncertainty about the final location of the access points, which means considerable uncertainty about pedestrian flows and impacts.

Even if the impacts of the DEIS plan were insignificant, and even if the analysis were not irredeemably compromised by segmentation, the DEIS fails for a third reason: The plan that it analyzes has been superseded. Among the significant changes are the following:

- The designation of 31st Street between 7th and 8th Avenue as a shared street
- The addition of as many as 1,800 residential units

- The addition of community services
- The elimination of a hotel on 8th Avenue
- A dramatic reduction in parking
- Various changes in the location of open space
- Reductions in density on certain sites, increases on at least one
- New internal subway entrances in new buildings.

Closing 31st Street, for example, would create additional adverse traffic impacts at several intersections. (ESD has made no effort to describe the particular geometry or channelization it envisions for the street.) Residential uses would produce different trip generation than hotel or commercial uses. Changes in the location of public spaces would alter how people congregate and flow through the area. And the desired transformation of the station into a shopping destination would bring even more traffic. At the same time, cars would be competing for fewer parking spaces, resulting in blocked public bus routes. Indeed, with these changes, just about every transportation impact and mitigation in the DEIS would need to be redone in an SEIS.

At the public hearing on December 8th, ESD said that it would address at least some of the changes in its FEIS, namely, in "an analysis of pedestrian elements on Ninth Avenue at 31st and 33rd Streets" and "a qualitative assessment of proposed West 31st Street shared street." Public Hearing PowerPoint at 16. But again, if the impacts are potentially significant, the statute requires the agency to address them *before* the FEIS, while the public still has a chance to respond. Even if it did not require this sequence, the proposed *post hoc* analyses address just two of the intersections, and a *qualitative* assessment of the shared street, as opposed to the quantitative assessment that ESD obviously deemed necessary for the DEIS study, is insufficient. See *CEQR Technical Manual* § 300.

E. Air Quality

The technical memorandum prepared by the environmental consulting firm of Paul Carpenter Associates, Inc. ("PCA Memorandum"), attached as Exhibit E, identifies two fundamental problems with ESD's analysis of air quality impacts in Chapter 15 of the DEIS. First, it fails to provide the underlying calculation and modeling files – stationary and mobile source inputs, meteorological and terrain data, building impact data, background nitrogen dioxide and ozone data files. Without them, it is impossible to test the assumptions of the DEIS assessment. See PCA Memorandum at 1.

The second problem should be familiar at this point: The plan it addresses has been superseded. The same plan changes that would increase the

transportation impacts, described in the previous section, would increase the air quality impacts. Converting 31st Street to a shared street would increase congestion elsewhere. So too would the reduction in parking spaces, as cars circle the area looking for on-street parking. Denser traffic, clotted public bus routes – the additional congestion would mean higher mobile source emissions. According to the DEIS, the original plan would already have exceeded the annual and 24-hour limits on mobile sources. The revised plan would be worse. *See id.* at 2.

The new plan would also alter the massing on five of the eight sites, requiring further alterations of the model assumptions. Although ESD suggests that the changes are irrelevant because they reduce rather than increase the total density of the project, that is not necessarily true. Buildings in the path of air flow create a turbulent wake on the downwind side of the building. A plume can be drawn into the wake, temporarily trapping it in a recirculating cavity, known as a "downwash effect," leading to higher ground-level pollutant concentrations. And this can happen as buildings get *lower*. The only way to determine whether the new massing would impact air quality would be to run the air quality models with new inputs, including both the increased traffic congestion and new massing. *See id.*

F. Noise

The PCA Memorandum also addresses ESD's analysis of noise impacts in Chapter 17 of the DEIS. It notes that, as a preliminary matter, ESD fails to provide valid background noise levels – the levels from which the project's impacts are measured. No doubt COVID posed unique challenges for setting new levels, but ESD never supplies the data that could support its solution – reusing the measurements from the 14-year-old Moynihan Station SEQRA review. Were the conditions at that time sufficiently similar to those today? The data we would need to answer that question, and do not have, includes the traffic counts collected during the 2007-08 measurement periods, essential for calculating noise passenger car equivalents. Also missing are distances to reflective surfaces and the meteorological data from the measurement periods – wind speeds, in particular, which must be within the range of speeds permitted in Chapter 19 of the *CEQR Technical Manual*.

In addition, the DEIS fails to provide the required noise attenuation for six of the eight sites, arguing that commercial buildings do not qualify as "noise-sensitive receptors." Not true. The attenuation level that the *CEQR Technical Manual* sets for commercial use is simply lower. *See id.* Thus the facades of *all* the towers require attenuation assessments. (The DEIS also

misstates the minimum attenuation required for the facades it does evaluate.)
See id. at 4.

Finally, the proposed mitigation measures for mobile-source noise impacts – double-glazed windows and alternative ventilation – do not adequately address the adverse impacts. "[N]oise levels generated by the Proposed Project by the 2038 analysis year would still result in interior noise levels up to approximately 9 dBA higher than [the maximum] 45 dBA during the peak hour of truck activity." *Id.* at 5.

G. Water and Sewer Infrastructure

Jaime Stein and Mr. Janes prepared a technical memorandum on Chapter 11 of the DEIS, "Water and Sewer Infrastructure," attached as Exhibit F (the "Stein/Janes Memorandum"). Ms. Stein is an urban planner at the Collective for Community, Culture, & Environment, LLC, and has collaborated extensively with City and State agencies on topics related to urban development and wastewater infrastructure. She was the Mayor's appointee for the Atlantic Yards Community Development Corporation, an ESD subsidiary.

As set forth below, ESD makes at least three critical errors. First, its stormwater runoff estimates are inaccurate; the actual amounts may be much higher and could lead to violations of the City's 2005 consent decree with DEC to reduce Combined Sewer Overflow ("CSO") events. Second, it supplies no evidence that the treatment plant into which the project's wastewater would flow, the North River Wastewater Treatment Plant (the "North River Plant") in West Harlem, could accommodate the new flow. Finally, it fails to consider the impacts of relocating the existing infrastructure under West 31st Street and under Seventh Avenue.

1. Stormwater Management. The stormwater analysis overlooks Hudson Yards, for one, which has added significant stress on the area's infrastructure and was largely built and occupied after the data here was compiled. The analysis also overlooks the Penn Expansion and Reconstruction; the design of the station would obviously affect runoff. And third, it overlooks Governor Hochul's decision to add residential and community use components to the plan. Would that increase or decrease water and sewage? The DEIS tables for water consumption and sewage generation must be updated to reflect all these changes in building bulk and use. *See Stein/Janes Memorandum* at 4-5.

ESD also makes methodological errors. Its assertion that the project would lead to a decrease in the rate of peak stormwater runoff is based on the questionable assumption that, because pre-2012 buildings are not required to

meet the 2012 performance standards set by the City's Department of Environmental Protection – greater on-site detention and reduced peak release rates – one can infer that the proposed towers would generate less stormwater than the existing, pre-2012 buildings. There is no excuse for ESD's failure to confirm that assumption by comparing the performance of new and old buildings since the City standards were adopted.

The DEIS buries another erroneous assumption in a footnote – that "the cover of the Penn Station expansion under Sites 1, 2, and 3 would be more similar to pavement and walkway surface than roof." DEIS at 11-12 n.8. But a "cover" *is* a roof. ESD plays this game to avoid using the runoff coefficient for roofs – 100 percent – and instead use the 85 percent coefficient for pavement and sidewalks. In other words, denying that a roof is a roof shaves off 15 percent of the estimated runoff from much of the block. But the agency has no basis for making this assumption before it has an actual plan for the Expansion. In the absence a plan, the reasonable worst case assumption is the conservative one – that the roof will in fact function as a roof. *See id.* at 4-5.

2. Wastewater Treatment and the North River Plant. The Final Scope of Work expressly requires consideration of the project's impacts on the North River Plant and conveyance system, but the DEIS barely discusses them. What, for example, is the plant's compliance history? Did ESD review the violations, if any, of the permit under the State Pollutant Discharge Elimination System? This is information it could easily have obtained from DEC. *See id.* at 7.

The data the DEIS does consider – the average conveyance for a 12-month period in 2017 – hardly describes a reasonable worst-case scenario. CSO events do not happen on *average* days; they happen on storm days, and in this era of droughts and downpours – even more extreme today than in 2017 – a proper analysis must address the extremes, not the averages. *See id.* at 5-6.

Storm surges produced by climate change increasingly threaten the project area. The inland edge of FEMA's 100-year Special Flood Hazard Area now reaches 10th Avenue between 31st and 32nd Streets, and the City's new sea level rise maps extend the flood plain in 2050 to the door of Moynihan Train Hall. *See id.* at 6.

3. Relocating Existing Infrastructure. The DEIS is required to address "the sensitivity of the project area's existing infrastructure." *CEQR Technical Manual* at 13-8. Here, ESD acknowledges that "some or all" of the existing water and sewer infrastructure under Sites 1-3 and 31st Street would have to be relocated, but it plays another game to avoid actually evaluating the impact.

In Chapter 11, it states that it will be discussed in Chapter 20. *See* DEIS at 11-9. But then in Chapter 20, it states that it was already discussed in Chapter 11. *See id.* at 20-70. In other words, it is never discussed. *See* Stein/Janes Memorandum at 2-3.

Nor does ESD discuss the additional relocation of infrastructure required by Governor Hochul's plan to expand the underground corridor from Herald Square to Penn Station.

These infrastructure impacts radiate well beyond the project area; the pipes convey water and sewage throughout West Midtown, an area crowded with underground utility and transit infrastructure. It would be reckless to approve this plan before it was clear that the City infrastructure could, in fact, be relocated. *See id.* at 3.¹⁷

V. THE DEIS FAILED TO PROPERLY CONSIDER ALTERNATIVES TO THE OVERRIDE

SEQRA requires that every DEIS describe and evaluate "the range of reasonable alternatives to the action that are feasible, considering the objectives and capabilities of the project sponsor." 6 N.Y.C.R.R. § 617.9(b)(5)(v); *see* N.Y.S. Environmental Conservation Law § 8-0109(2)(d). Further, it requires that the description and evaluation be at a level of detail "sufficient to permit a comparative assessment of the alternatives discussed." *Id.*

Two of the alternatives that ESD included in the Scope of Work and considered in the DEIS – the Residential and Lower Density Alternatives – identified significant shortcomings of the project. Although ESD obviously rejected the alternatives at the time, it has since acknowledged their virtues, and the revised plan incorporates versions of both. *See* Hochul PowerPoint at 8, 10-11.

¹⁷ Somehow the DEIS also concludes that 18.2 million GSF of floor area will have no significant impact on water supply, relying on the City's 2013 plan to offset increased water demand from the growing population with more efficient systems, e.g., low-flow fixtures. But it never supplies any data from the nine years that the program has been in effect to prove that it is working. Nor are the DEIS numbers relating to office space, however accurate or inaccurate, applicable to the residential space proposed by Governor Hochul. *See id.* at 7.

These versions, however, are too modest to meet ESD's stated objectives. Moreover, they are presented with nowhere near the level of detail "sufficient to permit a comparative assessment of the alternatives discussed," as required. The entirety of ESD's discussion is three pages, which simply state the new rules – the minimum number of residential units, the maximum floor area in each tower. See Hochul PowerPoint at 8, 10-11. There is no *evaluation* – no explanation for the agency's decision to introduce the changes, no discussion of new impacts, and no "comparative assessment" of the DEIS versions and the new versions. Even without this information, it is clear that the revised plans are too modest.

A. Residential Alternatives

The original DEIS Residential Alternative proposed a small number of housing units on Sites 1, 4, and 8 – 1,798 units in all, of which around 540 would be permanently affordable. See DEIS at 21-31. The revised plan is even lighter, requiring only 542 residential units, with 162 of them affordable, all on Site 1. To draw a useful comparison, as we pointed out earlier, ESD's Atlantic Yards project included 2,250 units of just affordable housing. See *Develop Don't Destroy*, 2008 N.Y. Misc. LEXIS 7645 at *3. At a time when the supply of housing in New York is so low and the supply of office space so high, one struggles to find a public justification for ESD's decision to put almost all its eggs in the office basket.¹⁸

ESD attempts to disguise the fact that its new plan is weaker than the plan in the DEIS by giving Vornado at least the *option* to build the remaining 1,256 units of the 1,798 (and the remaining 377 of the 540 affordable) on Sites 4 and 8. But there is no reason to believe that the company would take advantage of that opportunity. It was intimately involved in the development of Governor Cuomo's original plan, and that plan included *no* residential units. There is no doubt the company would still choose commercial over residential – and market rates over affordable ones – for these sites. In any event, SEQRA requires that the DEIS consider only the reasonable worst-case scenario, which would be the 542 and 162 numbers.¹⁹

¹⁸ If the FTA were to decide not to select the south side of 31st Street as the preferred location for the new tracks, there would be no Site 1, and thus *no* guaranteed residential space in the entire project.

¹⁹ With the demolition of the buildings on Sites 1-3, there might well be a net *loss* in housing. According to the Post Office's carrier routes, there are 2,173 residential units in the project area.

In addition to providing needed housing, a mixed-use district would be a safer and livelier place – one that did not close down at 6:00 or 7:00, as commercial districts do, and that extended the very lively mixed-used neighborhood to its south. See DEIS at 21-64. Lower Manhattan and Essex Crossing on the Lower East Side would be templates. See Michael Kimmelman, "Essex Crossing Is the Anti-Hudson Yards," *New York Times* (Nov. 7, 2019), [nytimes.com/2019/11/07/arts/design/essex-crossing.html](https://www.nytimes.com/2019/11/07/arts/design/essex-crossing.html).

But the residential component here is simply not big enough to achieve that goal. The housing would almost certainly be limited to Site 1 – the southwest corner of 31st Street and Eighth Avenue – leaving the rest of the nine-block project area without any residential element. In other words, the only gain would be appending one portion of one lot to the existing Chelsea neighborhood. That would hardly constitute a new mixed-use district.

The DEIS's primary objection to providing more housing is that it would generate somewhat less revenue than the Override. But it never establishes that differential. More importantly, the fate of these sites should not depend only on the amount of revenue they produce. All impacts must be considered, and at or near the top of the list are essential social goods like housing.²⁰

B. Lower Density Alternatives

The Governor's new plan would reduce density by only seven percent, from former Governor Cuomo's 19.6 GSF to her 18.2 million GSF. The DEIS itself makes clear how inadequate that percentage is; its Lower Density Alternative – eliminating the tower on Site 8 and leaving the others as they were – would be a *34 percent* reduction in density.

That said, the DEIS's specific idea – eliminating a single tower – was always a straw man, intended to avoid a serious discussion of the merits of reducing the project's density. What plausible argument could there be for limiting the change to just one of the eight sites? To distribute the density reduction across many sites is manifestly superior – reducing congestion

²⁰ It is not even clear that ESD has the right to lease to a private developer for residential uses. According to Section 7(1) of the UDC Act, residential projects may be leased "only to a housing company or a municipality or housing authority."

hotspots, better preserving the scale and character of the neighborhood, and providing more light and air, among other benefits.

ESD's argument against lower density alternatives is hardly a surprise: It would not "maximize the revenue that could be generated by higher-density development." DEIS at 21-68. That is true. But again, maximizing revenue should be only one of the considerations for ESD. The question is whether there may be better ways to provide a good portion of the needed money without obliterating the City's well-considered plan for this neighborhood.²¹

CONCLUSION

In the end, the debate over revenues returns us to the foundational problem with the GPP and DEIS: The primary purpose of this plan is to raise money to revive Penn Station. But until ESD can say what that would cost, and what the other agencies would contribute to defraying those costs, we are operating in the dark. The only way to operate in the light is to conduct a comprehensive environmental review of the project, including a comprehensive review of the project's funding. At that point, we would have the information necessary to determine whether the current plan is really a proper way to underwrite this City-defining capital project.

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²¹ In addition to failing to give due consideration to reasonable use and bulk alternatives, the DEIS fails to consider funding alternatives. In particular, it fails to consider the use of another value-capture method, tax increment financing ("TIF") districts – diverting a portion of the increase in real estate taxes from the local property owners benefiting from the public improvement. ESD received public comments on the Draft Scope urging the agency to consider this method, but it declined without explanation. See ESD Scope Responses at A-16. Among its obvious advantages over the current plan are that it eliminates the zoning-for-dollars conflict, *i.e.*, the need to choose between sound planning and revenue-raising. It also spreads the cost more justly, across all the properties benefitting from the improvement. See Citizens Budget Commission, *Tax Increment Financing: A Primer* (Dec. 2007), cbcny.org/research/tax-increment-financing-primer.

APPENDIX

The conclusions of a DEIS hinge on the reasonableness of its assumptions and the accuracy of its data. The DEIS here falls far short on both counts.

A. No-Action Development

Remarkably, it assumes that, without the new plan, five of the eight sites – Sites 1, 2, 3, 6, and 8 – would remain unchanged all the way through the end of the study period, 2038. In other words, even with ESD's rosy projections about the commercial real estate market, there would be no development at all on any of those sites. The suggestion that there would be no further development on Sites 1 and 6 is particularly absurd.

The DEIS never explains the basis for these assumptions, which it is required to do. Presumably they are based on a "lot utilization" analysis. Generally, properties that utilize less than half of their development rights are deemed "soft sites," *i.e.*, sites that are likely to be developed. *See CEQR Technical Manual* § 410. But Sites 1 and 6 are full of soft sites. Site 1, for example, contains an 8,363 SF lot that is currently a surface parking lot but could be developed to 9 FAR. Site 1 also contains three contiguous lots, apparently owned by the same company, with a combined lot size of 7,407 SF. Right now there are two- and three-story buildings on them – 2.44 FAR – but they could be developed to 9 FAR, and very likely will be so developed before 2038, even without the Override. *See* Janes Memorandum at 8-9.

Similarly, Site 6 contains a nearly 20,000 SF lot, now a three-story Old Navy, and an 11,000 SF corner lot, now a three-story Forever 21 – also soft sites. The Old Navy is built at 4 FAR but could go to 15 even without bonuses. The Forever 21 is built at just under 4 FAR but could go to 15. *See* Janes Memorandum at 9-10.

The sloppiness of ESD's analysis is reflected in its error-riddled lot utilization table, Appendix 2 of the Neighborhood Conditions Study. One portion of the table, reproduced below, misstates the maximum FAR for 11 lots, and misstates the as-of-right FAR bonus for 8 lots. Indeed, it lists different FARs for lots in the *same* zoning district, which cannot be:

Block	Lot	Number of Floors	Lot Area (sf)	Current Zoning	Maximum Allowable FAR
754	34	4	2,469	R8B	4
754	35	0	2,469	R8B	4
754	36	4	2,469	C6-3X	6
754	37	3	2,469	C6-3X	9
754	38	3	2,469	C6-3X	9
754	39	2	2,469	C6-3X	9
754	40	4	2,469	C6-3X	9
754	41	4	2,469	C6-3X	9
754	44	0	8,636	C6-3X	6
754	51	4	25,912	C6-3X	9
754	63	8	9,875	C6-3X	6
755	40	5	364,000	C6-4	10
780	1	3	1,675	C6-3X	9
780	2	5	2,500	C6-3X	9
780	5	3	825	C6-3X	9
780	6	3	2,469	M1-5	6.5
780	7	17	6,540	M1-5	5
780	9	2	2,469	M1-5	6.5
780	10	16	7,406	M1-5	6.5
780	13	16	4,934	M1-5	6.5
780	15	12	3,707	M1-5	5
780	17	6	3,719	M1-5	5
780	19	6	30,957	M1-5	5
780	26	4	19,550	M1-5	6.5
780	36	17	19,750	M1-6	10
780	45	3	9,066	M1-5	6.5
780	60	NA	22,742	M1-5	6.5
780	70	5	866	M1-5	5
780	71	15	4,937	M1-5	5
780	73	2	2,325	C6-3X	6
780	74	1	1,980	C6-3X	6
780	75	7	2,917	C6-3X	9
780	76	6	2,500	C6-3X	9
780	7501	12	5,000	C6-3X	9
781	1, 2, 10	NA	363,795	C6-4, C6-6	12 to 18
783	48	NA	2,083	C6-6	15
783	1, 34, 70	1, 1 and 57	156,099	C6-4, C6-6	12, 16
806	1	22	3,469	M1-6	10
806	3	4	4,725	M1-6	10
806	6	12	7,406	M1-6	10
806	9	12	7,406	M1-6	10
806	69	0	2,419	C6-4	10

Same C6-3X zoning district. They should all read 9

As-of-right bonus to 12

Same M1-5 zoning district. They should all read 6.5

As-of-right bonus to 12

Same M1-5 zoning district. They should all read 6.5

Same C6-3X zoning district. They should all read 9

As of right bonus to 16

This site is part of a previous approved GPP. Zoning FAR does not apply

As of right bonus to 12

Neighborhood Conditions Study

See NCS at 11. (Mr. Janes used corrected numbers in his lot utilization analysis of Sites 1 and 6 above.)

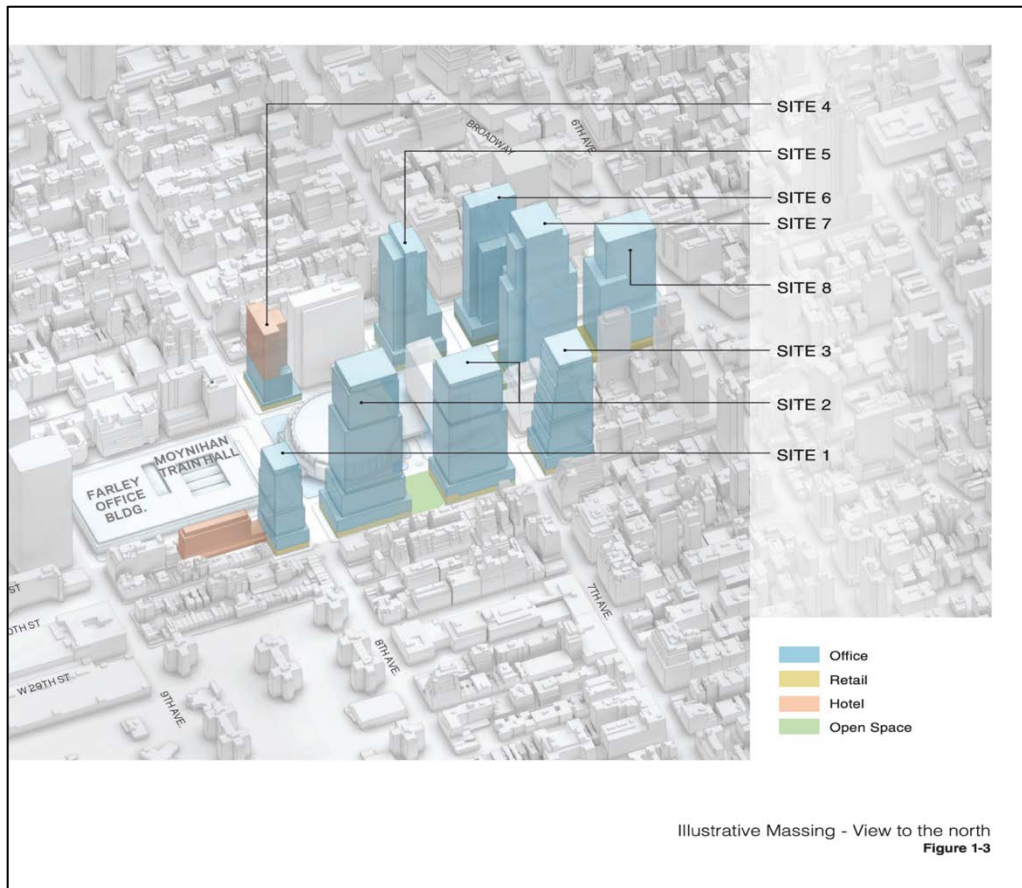
If these No-Action numbers are incorrect, so must the numbers for "Incremental Development" – the difference between the No-Action and With-Action scenarios – which is the very heart of an EIS. ESD must redo its entire No-Action scenario with corrected numbers and assumptions.

B. With-Action Massing

There is an equally significant error in the With-Action scenario – its massing model. A DEIS uses massing models to evaluate a number of

environmental impacts – urban design and visual resources, shadows, and air quality, to name three. For other impacts – transportation, water and sewer infrastructure, and solid waste and sanitation – the DEIS relies instead on floor area. Inconsistencies between massing and floor area can corrupt the entire study, and that is the case here. In essence, the DEIS describes one project for some chapters and another for others. See DEIS at 2-7.

Here is an "illustrative massing" for the reasonable worst case development scenario in the DEIS:



Draft Environmental Impact Statement

But this bears little resemblance to the massing that would be produced using the floor area table in the DEIS. Notice the numbers for Sites 7 and 8 below:

Table 1-1
Proposed Project Development Program (With Action Condition)

Site	Lot Area	Illustrative Heights (in feet)	Total GSF	Total Commercial GSF	Office GSF	Retail GSF	Hotel (Rooms)	Garage GSF	Parking Spaces	Non-Program Area*
1**	64,189	748 (Eighth Ave) 235 (Midblock)	1,283,460	1,039,602	751,999	6,000	563	0	0	243,857
2	158,000	1,052 (Seventh Ave) 1,300 (Eighth Ave)	6,292,118	5,096,615	5,060,615	36,000	0	0	0	1,195,503
3	44,436	936	1,769,598	1,433,375	1,421,375	12,000	0	0	0	336,224
4	34,807	664	1,100,000	866,000	289,160	100,000	734	25,000	100	209,000
5	45,425	1,018	1,900,000	1,539,000	1,418,436	120,564	0	0	0	361,000
6	54,313	1,130	2,100,000	1,676,000	1,554,500	121,500	0	25,000	100	399,000
7	79,000	1,270	2,600,000	2,081,000	1,879,000	202,000	0	25,000	100	494,000
8	79,000	975	2,600,000	2,081,000	1,875,000	206,000	0	25,000	100	494,000
Total	559,170	--	19,645,176	15,812,592	14,250,085	804,064	1,297	100,000	400	3,732,583

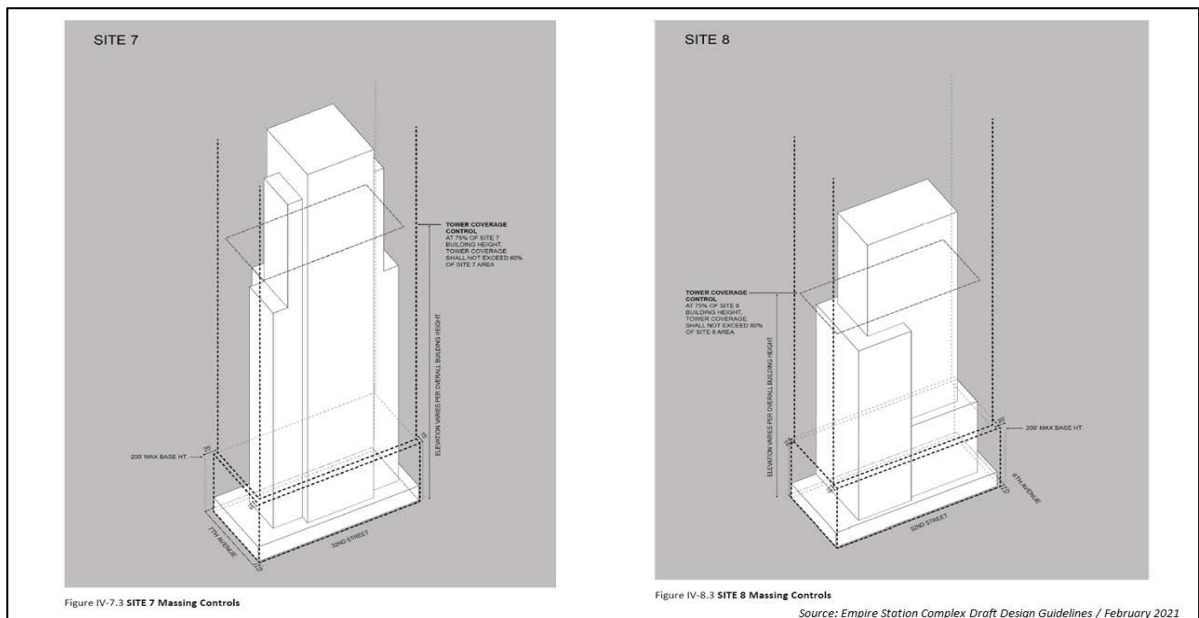
Notes:

* Non-program area includes space for building mechanicals, circulation space associated with transit improvements on the ground and sublevels, back-of-house areas (e.g., hallways and corridors to the building core), certain building core space, and lobby and loading space on the ground and sublevels.

** Site 1 (Block 754) may be developed with an alternate no-hotel commercial development program comprised of approximately 1,013,000 gsf office and 16,000 gsf retail. For this site, the program identified in the table above represents the more conservative scenario for the EIS analyses.

Draft Environmental Impact Statement

The sites have the same lot size and floor area. They are also on the same block, with the same bulk restrictions. And yet in the "illustrative massing" above, the building on Site 7 is visibly bigger than the one on Site 8. This is also the case in the massing used in the Draft Design Guidelines below. Plainly, these representations cannot be reconciled with the floor area table.



Draft Design Guidelines

ESD, Empire Station Complex Draft Design Guidelines (Feb. 2021), at 34, 36. Although ESD does not identify the exact difference in size between the buildings, Mr. Janes modeled them using ESD's own massing and produced the following:

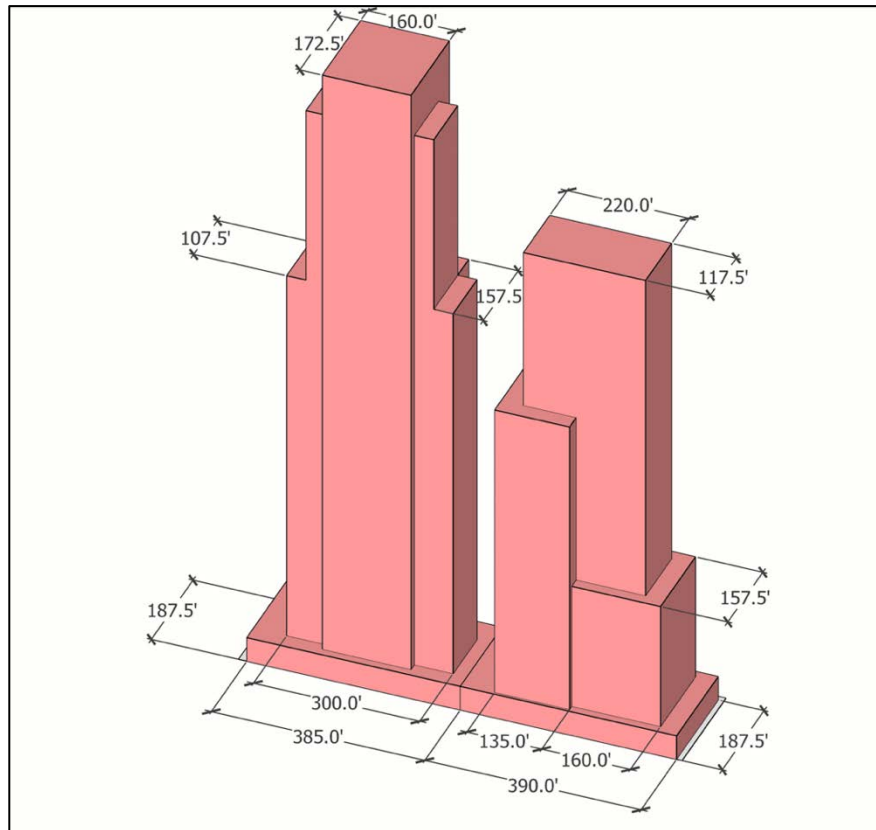


Diagram by George M. Janes & Associates

Site 7 has an above-ground volume of 54,181,125 cubic feet, and Site 8 only 37,928,039 cubic feet, 30 percent less. See Janes Memorandum at 5.

To estimate floor area based on this massing – massing measures only volume – Mr. Janes then assumed a two-story, 50-foot-tall base; floors above the base with an average height of 15 feet floor-to-floor; and a 40-foot bulkhead. This was the result:

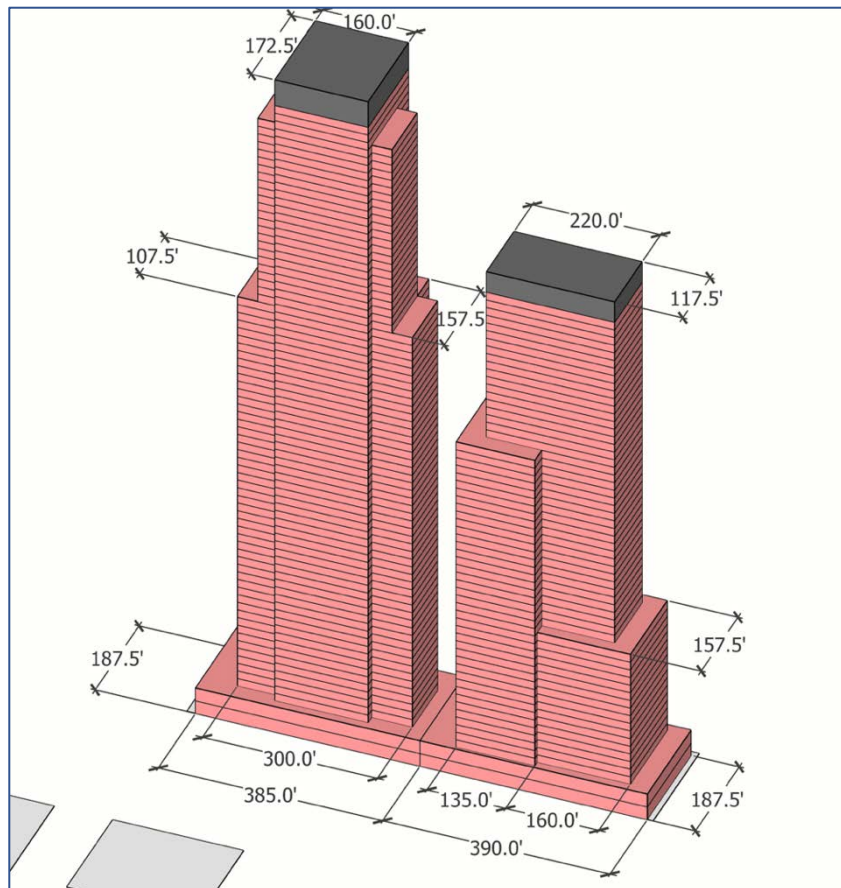


Diagram by George M. Janes & Associates

The above-grade floor area of Site 7 is 3,451,425 GSF, and the above-grade floor area of Site 8 is 2,387,953 GSF – a difference of 1,063,472. That difference is larger than the total floor area of the Chrysler Building. *See id.* at 6.

Whatever the explanation, this is huge error. There may be similar ones elsewhere in the project description. ESD must go back and review all of its calculations and prepare an accurate SEIS description.

C. Revenue and Zoning Floor Area

Estimating the revenue that ESD would receive from the development of Sites 1 and 7 requires four numbers: (1) the area of the lots, (2) the maximum ZFA under the existing zoning, (3) the maximum ZFA under the proposed rezoning, and (4) the Incremental ZFA, *i.e.*, the difference between (2) and (3). ESD gets the last three wrong. *See supra* at 32-34.

As we explained earlier, the current FAR table in the Neighborhood Conditions Study is full of numerical errors, and also neglects to add as-of-right bonuses, which SEQRA requires. *See supra* at 60. These errors can be corrected with a quick review of the table in the Zoning Resolution. The bigger problem is the numbers for the proposed plan. Neither the DEIS nor the Neighborhood Conditions Study provides FAR, only gross floor area. That is not enough to calculate the ZFA and Incremental ZFA of the sites.

ESD has since introduced what it calls "FAR equivalents" for four of the eight sites. *See* Hochul PowerPoint at 11. The agency never explains the distinction between FARs and FAR equivalents, nor does it explain why it offers equivalents for only half the sites, but in the absence of better numbers, we will use these.

Site 1 actually has two component parts, Sites 1A and 1B. ESD assigns 1A an FAR equivalent of 13, and 1B an FAR equivalent of 21, which blend to 16.69. *See id.* From there, one can calculate the maximum ZFA for the site by multiplying the lot area – 64,175 SF – by the 16.69 FAR equivalent, which is 1,071,081 SF. At \$550/SF, the payment would be around \$589 million.²²

Site 7 presents more challenges because ESD does not give an FAR equivalent for the site. The best way to derive one is by breaking down the gross floor area for the four sites that *do* have an equivalent. Gross floor area is the sum of (1) ZFA and (2) the floor area excluded from ZFA: cellars, bulkheads, mechanical spaces, certain stairwells. On those four sites, the average ZFA is 82 percent of the gross floor area and the non-ZFA is 18 percent. Applying the 82 percent figure to the gross floor area of Site 7 – 2,600,000 SF – one gets a ZFA of 2,132,000 SF.

The payment, however, would be based only on the Incremental ZFA, since Vornado already owns the site and would not have to pay for the development rights it already has. Subtracting the (corrected) maximum FAR under the existing zoning – 1,264,000 – from the maximum ZFA under the proposed rezoning – 2,132,000 – we get an Incremental ZFA of 868,000 SF. At \$550/SF, the payment would be \$447 million.

²² As we explained earlier, ESD would still need to subtract what it had paid the current owner to acquire the property in the first place – in effect, netting only the value of the additional square footage from the Override, *i.e.*, the Incremental ZFA. Here it is 518,196 SF, so at \$550/SF, the net would be \$285 million.



The Greater Harlem
Chamber of Commerce
200A West 136th Street
New York, NY 10030
Established in 1896 – 2021
125th ANNIVERSARY

June 29, 2022

Hon. Kathy Hochul

Cc: U.S. Senator Chuck Schumer
U. S. Senator Kirsten Gillibrand

Subject: Pennsylvania Station Civic and Land Use Project

Dear Governor Hochul,

I am pleased to inform you that at our 2nd Quarter Board of Directors meeting held on June 23, 2022, the full Board of Directors of The Greater Harlem Chamber of Commerce unanimously voted to support and encourage the Pennsylvania Station Civic and Land Use Improvement Project.

It is our firm belief that the development and completion of this project will significantly enhance and facilitate better use of Pennsylvania Station, through enhanced pedestrian mobility improvements, expanded capacity for and accessibility to public transit, open public spaces and the overall important emphasis on environmental benefits. We also support the proposed bicycle infrastructure improvements and other related development connected with the site.

With that in mind, we wish to officially notify you of the support of our Chamber for this very important development project that will substantially improve Pennsylvania Station and thereby benefit all New Yorkers and visitors who utilize the station.

If there is any additional way that we can assist in expressing our support, please let us know.

**On behalf of the Board of Directors of
The Greater Harlem Chamber of Commerce**

Respectfully,

Lloyd A. Williams
President & CEO



INTERNATIONAL UNION OF OPERATING ENGINEERS

AFFILIATED WITH THE A.F.L.-C.I.O.
LOCAL UNION 14-14B



CHRISTOPHER T. CONFREY
President

KENNETH B. KLEMENS, JR.
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JOHN R. POWERS

HUGH MANLEY

KENNETH B. KLEMENS, JR.

ALLEN S. WRIGHT

TIMOTHY S. BROGAN

June 30, 2022

On behalf of the more than 1,400 men and women represented by IUOE Local 14-14B, we are urging you to support the Pennsylvania Station Area Civic and Land Use Improvement Project.

This project will not only create hundreds of union jobs, will transform, and revitalize Penn Station will include the construction of as many as ten new state-of-art office and residential buildings. This seminal project will improve service and access with the addition of upgraded tracks, new platforms, elevators, and links to subways and Metro North.

Beyond the bringing the station into the 21st century, the new buildings will create desperately needed new housing. Some 1,800 new residential units including more than five hundred permanently affordable residences.

Just as importantly, this project will provide tens of thousands of good paying union jobs. Job demands that will also create new opportunities for men and women to enter the workforce, learn new skills, and provide for their families.

Throughout our history New York City has always embraced big projects. From the Brooklyn Bridge to Penn and Grand Central Stations and the Hudson Yards, we continue to evolve and provide for our families.

Let us not stop now.

Sincerely,

Allen S. Wright
Political Director
IUOE Local 14-14B



Empire State Development
June 30, 2022
Directors Meeting

Comment on
Pennsylvania Station Civic and Land Use Improvement Project

My name is Charles Yu, and I am the Senior Director of Business Assistance at the Long Island City Partnership, the Local Development Corporation (LDC) for Long Island City (LIC). I am writing today to reinforce the importance of investing in our public transit infrastructure to our local businesses and economy, and to the many people who rely on public transit to access opportunities in the region.

The Long Island City Partnership (LICP) advocates for economic development that benefits the industrial, commercial, tech, cultural, tourism, and residential sectors of Long Island City (LIC). Our mission is to attract new businesses to LIC, retain those already here, welcome new residents and visitors, and promote a vibrant and authentic mixed-use community. Among other programs, we manage the LIC Business Improvement District (LIC BID) and Industrial Business Zone (IBZ), providing through both one on one assistance to a wide range of companies including in accessing relocation, equipment purchasing, capital project and workforce development incentives.

Our neighborhood is one of the most important regional economic drivers, supporting a vibrant mixed-use community and one of the most productive manufacturing centers in New York State. For several recent years, LIC has been the fastest growing residential area in the country. Its education opportunities span from Cornell Tech to LaGuardia Community College. It has more than 6,800 businesses employing over 107,000 employees across diverse socio-economic backgrounds and a wide range of skill levels. It is home to multiple renowned arts and cultural institutions, including MoMA P.S.1, MoMI, SculptureCenter, Socrates Sculpture Park, and The Noguchi Museum.

We owe much of our success to our public transit infrastructure, which enables people from the five boroughs and surrounding suburbs to come here. Many of the social and professional connections that are fundamental to our neighborhood's success cannot happen without the physical connections provided by public transit. From the student who attends classes at LaGuardia Community College, to the worker who makes essential products in advanced factories, to the tourist who visits an exhibition at one of our museums, they all rely on public transit to get to their destinations.

Fortunately, the State recognizes the importance of public transit to our local economy. Its support and actions on recent and ongoing transit projects play a vital role in ensuring our transit infrastructure can continue to serve the region's growth. We believe improvements to Penn Station that enhance service are very helpful, and will leverage previous public investments to continue to benefit LIC, the region, and its people. What is more, as the COVID-19 pandemic continues, it is more important than ever to improve the public transit connections to jobs and career opportunities for all—a crucial component of an equitable recovery.

On behalf of the LIC business community, I thank you for your consideration of these matters.

**Comments on the Pennsylvania Station Area Civic and Land Use Project
Final Environmental Impact Study**

Tony Simone, Democratic Nominee for the 75th Assembly District

July 11, 2022

I appreciate the opportunity to comment on the Final Environmental Impact Study on the Pennsylvania Station Area Civic and Land Use Improvement Project.

New York State's plan to reconstruct and expand Penn Station through a complete redevelopment of the blocks surrounding the station will have one of the most transformational effects on our community for the next century. Nearly everyone agrees that Penn Station is in desperate need of an overhaul and it would be fiscally prudent to take advantage of federal infrastructure funding while it is available. I am thankful for the hard work of our local elected officials, Community Boards Four and Five, and all the members of the Community Advisory Committee Working Group which has resulted in improvements to the plan. However, there are still many areas of the plan in strong need of change in order for a plan to truly benefit both our regional transportation infrastructure and the surrounding community. The following comments are my prime areas of concern.

Housing

I appreciate the reduction in commercial space in favor of greater residential development. When the demand for class-A office returns, the areas around major transportation hubs such as Penn provide an excellent location, yet I believe the heavy reliance on commercial development remains a financial risk in light of other options.

Our city and region are currently facing a housing crisis driven by a shortage of new residential development. This plan can help meet that demand by including greater requirements for residential development. The current plan only requires housing at site 1A, leaving sites 1B, 4 and 8 as only having the option of residential development. This leaves a plan where the final amount of housing may turn out to be minimal, and potentially non-existent, as the only required housing location, site 1A, would not be developed if an alternative other than the southern expansion is selected. A guarantee for new affordable housing must be included in this plan by requiring residential development on sites outside the southern expansion area.

Displacement of Residents and Small Businesses

I am against eminent domain that would displace residents and businesses. The state must thoroughly pursue a path to increase station capacity without displacing local residents.

If the southern expansion plan moves forward in the end, new housing on another site should be developed first with current residents having the first shot at moving there. Any residents in current affordable units must be supplied with an equivalent affordable unit with the same or better terms. Long time residents facing displacement have concerns about what they are facing, including potential timelines, options and compensation. Greater efforts must be made to ensure residents have all the information and assistance they need.

Governance Oversight and Accountability

This multi-agency plan with a multi-decade timeline is currently far too fractured to succeed in a manner that provides transparency and accountability to the public. The dysfunction of three commuter rail lines (Long Island Rail Road, New Jersey Transit and eventually Metro North) and a long distance railroad (Amtrak) all utilizing one station is unacceptable for a 21st century rail station that is the hub of our country's largest metropolitan area. I urge Governor Hochul to appoint a singular head to coordinate and manage the entire project. This person should have the power to break through a singular agency's self-interests and also be held accountable for promises made to riders and the local community. This project will require great coordination between work occurring above and below ground as well as providing regular information and opportunities for public input, a requirement that calls for a single point of accountability.

Madison Square Garden

The current station is the result of one of the worst planning decisions ever made in this city: razing the architectural marvel that was the former Penn Station and replacing it with the claustrophobic underground maze we deal with today. We will be making an equally catastrophic decision by ignoring the elephant on top of it all, Madison Square Garden. The continued presence of MSG blocks the construction of the grand train hall our city deserves. MSG support beams restrict realigning station tracks and platforms and also heavily reduce the viability of a through-running option. Any public realm improvements will be negatively impacted due to the loading operations of MSG and the disruptive presence of trucks that regularly park along Eighth Avenue taking both street and sidewalk space. The goal of a world class, welcoming and efficient transportation hub cannot be fully met until MSG is moved.

Community Benefits

I am pleased to see that recommendations from the CACWG to provide social services on site are included. I am concerned that these services have been delegated to sites that would only be developed if the southern expansion were to occur. An alternative proposal for these services must be included so that they are guaranteed if the southern expansion is not selected.

Public Realm Improvements

The creation of a public realm task force is a critical part of this plan and its success will be critical to the cohesiveness of the neighborhood and upgraded station. I share the concerns raised by Community Board Four regarding the funding mechanism for the public realm fund. An arrangement that guarantees funding, such as setting a fixed proportion of PILOTs, must be explored.

The sidewalks surrounding Penn Station are overcrowded and an increase in station capacity combined with new development will exacerbate that. Pedestrians must be the top priority in any new street designs and pedestrian space must not be impeded by other needs. All building frontage in the area should be active, avoiding wide lobby entrances or dead space alongside building entrances. All building operations such as loading and garbage removal should take place in buildings' interiors.

From: Tom Adams <>
Sent: Tuesday, July 5, 2022 7:57 AM

Subject: I'm Adding My Voice in Support of the Governor's Plan for a New Penn Station

Hello, I am one among thousands of New Yorkers who fully support Governor Hochul's proposed plan to transform Penn Station. Penn Station was once one of the crown jewels of our city—not just the most important transit hub in the region but an architectural gem. Since the 60s it has fallen into the disrepair commuters have grown accustomed to—a dilapidated basement of a station almost universally reviled by the 600,000+ riders it serves every day. With the Governor's proposal, we have a unique opportunity to reimagine Penn Station, and restore its original promise as a grand gateway to New York. This plan is a rare opportunity to not only revitalize Penn Station, but also create thousands of jobs, prioritize smart transit, and improve the lives of hundreds of thousands who commute through Penn Station daily. A recent report issued by the Regional Plan Association highlights the need to continue investing in our infrastructure as transit ridership is expected to surpass pre-COVID levels by the end the decade. As more people return to the office, combined with increased demand from the Bronx and Westchester as a result of Penn Access, the lack of transit capacity at Penn Station will soon be untenable. Penn and the surrounding district does not meet the needs of nearby residents and commuters who deserve a world-class station here in New York City. Capacity has not increased despite daily ridership ballooning to 600,000 over the last few decades. The commuter experience is defined by delays and countless obstacles that take up valuable time as commuters get to work and return to their families. And, crucially, the Station is completely unfit to meet the needs of disabled New Yorkers with only offers 2 elevators that connect to street level. The addition of 18 more escalators and 11 new elevators would address critical accessibility needs at the station. Public transportation must be built for commuters of all abilities—and the Governor's plan helps us do just that at Penn Station. Outside Penn, homelessness and crime have become serious issues in the neighborhood. Meanwhile there are few spaces open to the public that befit a renowned regional transit hub.. The new plan for Penn will revitalize the surrounding district with transformative neighborhood improvements including 8 acres of new public space, nearly 2000 new units of housing, increased connectivity to transit and widened sidewalks. We have a once-in-a-generation opportunity to improve our nation's busiest transit hub. This is an investment whose impact and benefits will be felt for decades to come. The new Penn Station will be a symbol that New Yorkers can be proud of and look to as we rebuild our region following one of the toughest periods in modern history. Now is the time to boldly invest in our infrastructure, in our economy, and in our future. Please move this plan forward - it will improve the lives of countless New Yorkers like mine. Sincerely,

From: Omar Ahmad <>
Sent: Saturday, July 9, 2022 3:47 PM

Subject: I'm Adding My Voice in Support of the Governor's Plan to Fix Penn Station

Hello, I am one among thousands of New Yorkers who fully support Governor Hochul's proposed plan to transform Penn Station. Penn Station was once one of the crown jewels of our city—not just the most important transit hub in the region but an architectural gem. Since the 60s it has fallen into the disrepair commuters have grown accustomed to—a dilapidated basement of a station almost universally reviled by the 600,000+ riders it serves every day. With the Governor's proposal, we have a unique opportunity to reimagine Penn Station, and restore its original promise as a grand gateway to New York. This plan is a rare opportunity to not only revitalize Penn Station, but also create thousands of jobs, prioritize smart transit, and improve the lives of hundreds of thousands who commute through Penn Station daily. A recent report issued by the Regional Plan Association highlights the need to continue investing in our infrastructure as transit ridership is expected to surpass pre-COVID levels by the end the decade. As more people return to the office, combined with increased demand from the Bronx and Westchester as a result of Penn Access, the lack of transit capacity at Penn Station will soon be untenable. Penn and the surrounding district does not meet the needs of nearby residents and commuters who deserve a world-class station here in New York City. Capacity has not increased despite daily ridership ballooning to 600,000 over the last few decades. The commuter experience is defined by delays and countless obstacles that take up valuable time as commuters get to work and return to their families. And, crucially, the Station is completely unfit to meet the needs of disabled New Yorkers with only offers 2 elevators that connect to street level. The addition of 18 more escalators and 11 new elevators would address critical accessibility needs at the station. Public transportation must be built for commuters of all abilities—and the Governor's plan helps us do just that at Penn Station. Outside Penn, homelessness and crime have become serious issues in the neighborhood. Meanwhile there are few spaces open to the public that befit a renowned regional transit hub.. The new plan for Penn will revitalize the surrounding district with transformative neighborhood improvements including 8 acres of new public space, nearly 2000 new units of housing, increased connectivity to transit and widened sidewalks. We have a once-in-a-generation opportunity to improve our nation's busiest transit hub. This is an investment whose impact and benefits will be felt for decades to come. The new Penn Station will be a symbol that New Yorkers can be proud of and look to as we rebuild our region following one of the toughest periods in modern history. Now is the time to boldly invest in our infrastructure, in our economy, and in our future. Please move this plan forward - it will improve the lives of countless New Yorkers like mine. Sincerely,

From: Luc Anis <>
Sent: Sunday, July 10, 2022 11:52 PM
Subject: I'm Adding My Voice in Support of the Governor's Plan to Fix Penn Station

Hello, I am one among thousands of New Yorkers who fully support Governor Hochul's proposed plan to transform Penn Station.

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Sincerely,

From: brucer44
Sent: Friday, July 8, 2022 1:53 PM

Subject: I'm Adding My Voice in Support of the Governor's Plan for a New Penn Station

Hello, I am one among thousands of New Yorkers who fully support Governor Hochul's proposed plan to transform Penn Station. Penn Station was once one of the crown jewels of our city—not just the most important transit hub in the region but an architectural gem. Since the 60s it has fallen into the disrepair commuters have grown accustomed to—a dilapidated basement of a station almost universally reviled by the 600,000+ riders it serves every day. With the Governor's proposal, we have a unique opportunity to reimagine Penn Station, and restore its original promise as a grand gateway to New York. This plan is a rare opportunity to not only revitalize Penn Station, but also create thousands of jobs, prioritize smart transit, and improve the lives of hundreds of thousands who commute through Penn Station daily. A recent report issued by the Regional Plan Association highlights the need to continue investing in our infrastructure as transit ridership is expected to surpass pre-COVID levels by the end the decade. As more people return to the office, combined with increased demand from the Bronx and Westchester as a result of Penn Access, the lack of transit capacity at Penn Station will soon be untenable. Penn and the surrounding district does not meet the needs of nearby residents and commuters who deserve a world-class station here in New York City. Capacity has not increased despite daily ridership ballooning to 600,000 over the last few decades. The commuter experience is defined by delays and countless obstacles that take up valuable time as commuters get to work and return to their families. And, crucially, the Station is completely unfit to meet the needs of disabled New Yorkers with only offers 2 elevators that connect to street level. The addition of 18 more escalators and 11 new elevators would address critical accessibility needs at the station. Public transportation must be built for commuters of all abilities—and the Governor's plan helps us do just that at Penn Station. Outside Penn, homelessness and crime have become serious issues in the neighborhood. Meanwhile there are few spaces open to the public that befit a renowned regional transit hub.. The new plan for Penn will revitalize the surrounding district with transformative neighborhood improvements including 8 acres of new public space, nearly 2000 new units of housing, increased connectivity to transit and widened sidewalks. We have a once-in-a-generation opportunity to improve our nation's busiest transit hub. This is an investment whose impact and benefits will be felt for decades to come. The new Penn Station will be a symbol that New Yorkers can be proud of and look to as we rebuild our region following one of the toughest periods in modern history. Now is the time to boldly invest in our infrastructure, in our economy, and in our future. Please move this plan forward - it will improve the lives of countless New Yorkers like mine. Sincerely,

From: Michelle Campos <>
Sent: Monday, July 11, 2022 9:50 AM
Subject: I'm Adding My Voice in Support of the Governor's Plan for a New Penn Station

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Sincerely,

From: Andres Ceballos <>
Sent: Saturday, July 9, 2022 11:16 AM

Subject: I'm Adding My Voice in Support of the Governor's Plan to Fix Penn Station

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Sincerely,
Andres Ceballos

From: Steve Corso <>
Sent: Sunday, July 10, 2022 9:23 PM

Subject: I'm Adding My Voice in Support of the Governor's Plan for a New Penn Station

Hello, I am one among thousands of New Yorkers who fully support Governor Hochul's proposed plan to transform Penn Station. Penn Station was once one of the crown jewels of our city—not just the most important transit hub in the region but an architectural gem. Since the 60s it has fallen into the disrepair commuters have grown accustomed to—a dilapidated basement of a station almost universally reviled by the 600,000+ riders it serves every day. With the Governor's proposal, we have a unique opportunity to reimagine Penn Station, and restore its original promise as a grand gateway to New York. This plan is a rare opportunity to not only revitalize Penn Station, but also create thousands of jobs, prioritize smart transit, and improve the lives of hundreds of thousands who commute through Penn Station daily. A recent report issued by the Regional Plan Association highlights the need to continue investing in our infrastructure as transit ridership is expected to surpass pre-COVID levels by the end the decade. As more people return to the office, combined with increased demand from the Bronx and Westchester as a result of Penn Access, the lack of transit capacity at Penn Station will soon be untenable. Penn and the surrounding district does not meet the needs of nearby residents and commuters who deserve a world-class station here in New York City. Capacity has not increased despite daily ridership ballooning to 600,000 over the last few decades. The commuter experience is defined by delays and countless obstacles that take up valuable time as commuters get to work and return to their families. And, crucially, the Station is completely unfit to meet the needs of disabled New Yorkers with only offers 2 elevators that connect to street level. The addition of 18 more escalators and 11 new elevators would address critical accessibility needs at the station. Public transportation must be built for commuters of all abilities—and the Governor's plan helps us do just that at Penn Station. Outside Penn, homelessness and crime have become serious issues in the neighborhood. Meanwhile there are few spaces open to the public that befit a renowned regional transit hub.. The new plan for Penn will revitalize the surrounding district with transformative neighborhood improvements including 8 acres of new public space, nearly 2000 new units of housing, increased connectivity to transit and widened sidewalks. We have a once-in-a-generation opportunity to improve our nation's busiest transit hub. This is an investment whose impact and benefits will be felt for decades to come. The new Penn Station will be a symbol that New Yorkers can be proud of and look to as we rebuild our region following one of the toughest periods in modern history. Now is the time to boldly invest in our infrastructure, in our economy, and in our future. Please move this plan forward - it will improve the lives of countless New Yorkers like mine.

Sincerely,
Steve Corso

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Life is what happens to you while you're busy making other plans. -- John Lennon

From: Frankie Daniels <>
Sent: Sunday, July 3, 2022 6:19 PM

Subject: I'm Adding My Voice in Support of the Governor's Plan for a New Penn Station

Hello, I am one among thousands of New Yorkers who fully support Governor Hochul's proposed plan to transform Penn Station. Penn Station was once one of the crown jewels of our city—not just the most important transit hub in the region but an architectural gem. Since the 60s it has fallen into the disrepair commuters have grown accustomed to—a dilapidated basement of a station almost universally reviled by the 600,000+ riders it serves every day. With the Governor's proposal, we have a unique opportunity to reimagine Penn Station, and restore its original promise as a grand gateway to New York. This plan is a rare opportunity to not only revitalize Penn Station, but also create thousands of jobs, prioritize smart transit, and improve the lives of hundreds of thousands who commute through Penn Station daily. A recent report issued by the Regional Plan Association highlights the need to continue investing in our infrastructure as transit ridership is expected to surpass pre-COVID levels by the end the decade. As more people return to the office, combined with increased demand from the Bronx and Westchester as a result of Penn Access, the lack of transit capacity at Penn Station will soon be untenable. Penn and the surrounding district does not meet the needs of nearby residents and commuters who deserve a world-class station here in New York City. Capacity has not increased despite daily ridership ballooning to 600,000 over the last few decades. The commuter experience is defined by delays and countless obstacles that take up valuable time as commuters get to work and return to their families. And, crucially, the Station is completely unfit to meet the needs of disabled New Yorkers with only offers 2 elevators that connect to street level. The addition of 18 more escalators and 11 new elevators would address critical accessibility needs at the station. Public transportation must be built for commuters of all abilities—and the Governor's plan helps us do just that at Penn Station. Outside Penn, homelessness and crime have become serious issues in the neighborhood. Meanwhile there are few spaces open to the public that befit a renowned regional transit hub.. The new plan for Penn will revitalize the surrounding district with transformative neighborhood improvements including 8 acres of new public space, nearly 2000 new units of housing, increased connectivity to transit and widened sidewalks. We have a once-in-a-generation opportunity to improve our nation's busiest transit hub. This is an investment whose impact and benefits will be felt for decades to come. The new Penn Station will be a symbol that New Yorkers can be proud of and look to as we rebuild our region following one of the toughest periods in modern history. Now is the time to boldly invest in our infrastructure, in our economy, and in our future. Please move this plan forward - it will improve the lives of countless New Yorkers like mine. Sincerely, Francis Daniels

From: John Di Prizito <johndiprizito@gmail.com>
Sent: Monday, July 4, 2022 8:42 PM
Subject: I'm Adding My Voice in Support of the Governor's Plan to Fix Penn Station

Hello, I am one among thousands of New Yorkers who fully support Governor Hochul's proposed plan to transform Penn Station.

Penn Station was once one of the crown jewels of our city—not just the most important transit hub in the region but an architectural gem. Since the 60s it has fallen into the disrepair commuters have grown accustomed to—a dilapidated basement of a station almost universally reviled by the 600,000+ riders it serves every day.

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Now is the time to boldly invest in our infrastructure, in our economy, and in our future. Please move this plan forward - it will improve the lives of countless New Yorkers like mine.

Sincerely,

John D

From: ernie esquivel <>
Sent: Sunday, July 10, 2022 9:05 AM

Subject: I'm Adding My Voice in Support of the Governor's Plan for a New Penn Station

Hello, I am one among thousands of New Yorkers who fully support Governor Hochul's proposed plan to transform Penn Station. Penn Station was once one of the crown jewels of our city—not just the most important transit hub in the region but an architectural gem. Since the 60s it has fallen into the disrepair commuters have grown accustomed to—a dilapidated basement of a station almost universally reviled by the 600,000+ riders it serves every day. With the Governor's proposal, we have a unique opportunity to reimagine Penn Station, and restore its original promise as a grand gateway to New York. This plan is a rare opportunity to not only revitalize Penn Station, but also create thousands of jobs, prioritize smart transit, and improve the lives of hundreds of thousands who commute through Penn Station daily. A recent report issued by the Regional Plan Association highlights the need to continue investing in our infrastructure as transit ridership is expected to surpass pre-COVID levels by the end the decade. As more people return to the office, combined with increased demand from the Bronx and Westchester as a result of Penn Access, the lack of transit capacity at Penn Station will soon be untenable. Penn and the surrounding district does not meet the needs of nearby residents and commuters who deserve a world-class station here in New York City. Capacity has not increased despite daily ridership ballooning to 600,000 over the last few decades. The commuter experience is defined by delays and countless obstacles that take up valuable time as commuters get to work and return to their families. And, crucially, the Station is completely unfit to meet the needs of disabled New Yorkers with only offers 2 elevators that connect to street level. The addition of 18 more escalators and 11 new elevators would address critical accessibility needs at the station. Public transportation must be built for commuters of all abilities—and the Governor's plan helps us do just that at Penn Station. Outside Penn, homelessness and crime have become serious issues in the neighborhood. Meanwhile there are few spaces open to the public that befit a renowned regional transit hub.. The new plan for Penn will revitalize the surrounding district with transformative neighborhood improvements including 8 acres of new public space, nearly 2000 new units of housing, increased connectivity to transit and widened sidewalks. We have a once-in-a-generation opportunity to improve our nation's busiest transit hub. This is an investment whose impact and benefits will be felt for decades to come. The new Penn Station will be a symbol that New Yorkers can be proud of and look to as we rebuild our region following one of the toughest periods in modern history. Now is the time to boldly invest in our infrastructure, in our economy, and in our future. Please move this plan forward - it will improve the lives of countless New Yorkers like mine. Sincerely,

From: Steve Fagan <>
Sent: Thursday, June 30, 2022 6:45 PM

Subject: I'm Adding My Voice in Support of the Governor's Plan for a New Penn Station

Hello, I am one among thousands of New Yorkers who fully support Governor Hochul's proposed plan to transform Penn Station.

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Sincerely,

Steve Fagan

From: Donovan Fernandes <>
Sent: Friday, July 8, 2022 1:36 PM
Subject: I'm Adding My Voice in Support of the Governor's Plan for a New Penn Station

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Now is the time to boldly invest in our infrastructure, in our economy, and in our future. Please move this plan forward - it will improve the lives of countless New Yorkers like mine.

Sincerely,
DF

From: Sandra Funke <>
Sent: Sunday, July 10, 2022 4:56 PM

Subject: I'm Adding My Voice in Support of the Governor's Plan for a New Penn Station

Hello, I am one among thousands of New Yorkers who fully support Governor Hochul's proposed plan to transform Penn Station. Penn Station was once one of the crown jewels of our city—not just the most important transit hub in the region but an architectural gem. Since the 60s it has fallen into the disrepair commuters have grown accustomed to—a dilapidated basement of a station almost universally reviled by the 600,000+ riders it serves every day. With the Governor's proposal, we have a unique opportunity to reimagine Penn Station, and restore its original promise as a grand gateway to New York. This plan is a rare opportunity to not only revitalize Penn Station, but also create thousands of jobs, prioritize smart transit, and improve the lives of hundreds of thousands who commute through Penn Station daily. A recent report issued by the Regional Plan Association highlights the need to continue investing in our infrastructure as transit ridership is expected to surpass pre-COVID levels by the end the decade. As more people return to the office, combined with increased demand from the Bronx and Westchester as a result of Penn Access, the lack of transit capacity at Penn Station will soon be untenable. Penn and the surrounding district does not meet the needs of nearby residents and commuters who deserve a world-class station here in New York City. Capacity has not increased despite daily ridership ballooning to 600,000 over the last few decades. The commuter experience is defined by delays and countless obstacles that take up valuable time as commuters get to work and return to their families. And, crucially, the Station is completely unfit to meet the needs of disabled New Yorkers with only offers 2 elevators that connect to street level. The addition of 18 more escalators and 11 new elevators would address critical accessibility needs at the station. Public transportation must be built for commuters of all abilities—and the Governor's plan helps us do just that at Penn Station. Outside Penn, homelessness and crime have become serious issues in the neighborhood. Meanwhile there are few spaces open to the public that befit a renowned regional transit hub.. The new plan for Penn will revitalize the surrounding district with transformative neighborhood improvements including 8 acres of new public space, nearly 2000 new units of housing, increased connectivity to transit and widened sidewalks. We have a once-in-a-generation opportunity to improve our nation's busiest transit hub. This is an investment whose impact and benefits will be felt for decades to come. The new Penn Station will be a symbol that New Yorkers can be proud of and look to as we rebuild our region following one of the toughest periods in modern history. Now is the time to boldly invest in our infrastructure, in our economy, and in our future. Please move this plan forward - it will improve the lives of countless New Yorkers like mine. Sincerely,

From: Jeff Hsu <>
Sent: Monday, July 11, 2022 2:32 PM

Subject: I'm Adding My Voice in Support of the Governor's Plan for a New Penn Station

Hello, I am one among thousands of New Yorkers who fully support Governor Hochul's proposed plan to transform Penn Station. Penn Station was once one of the crown jewels of our city—not just the most important transit hub in the region but an architectural gem. Since the 60s it has fallen into the disrepair commuters have grown accustomed to—a dilapidated basement of a station almost universally reviled by the 600,000+ riders it serves every day. With the Governor's proposal, we have a unique opportunity to reimagine Penn Station, and restore its original promise as a grand gateway to New York. This plan is a rare opportunity to not only revitalize Penn Station, but also create thousands of jobs, prioritize smart transit, and improve the lives of hundreds of thousands who commute through Penn Station daily. A recent report issued by the Regional Plan Association highlights the need to continue investing in our infrastructure as transit ridership is expected to surpass pre-COVID levels by the end the decade. As more people return to the office, combined with increased demand from the Bronx and Westchester as a result of Penn Access, the lack of transit capacity at Penn Station will soon be untenable. Penn and the surrounding district does not meet the needs of nearby residents and commuters who deserve a world-class station here in New York City. Capacity has not increased despite daily ridership ballooning to 600,000 over the last few decades. The commuter experience is defined by delays and countless obstacles that take up valuable time as commuters get to work and return to their families. And, crucially, the Station is completely unfit to meet the needs of disabled New Yorkers with only offers 2 elevators that connect to street level. The addition of 18 more escalators and 11 new elevators would address critical accessibility needs at the station. Public transportation must be built for commuters of all abilities—and the Governor's plan helps us do just that at Penn Station. Outside Penn, homelessness and crime have become serious issues in the neighborhood. Meanwhile there are few spaces open to the public that befit a renowned regional transit hub.. The new plan for Penn will revitalize the surrounding district with transformative neighborhood improvements including 8 acres of new public space, nearly 2000 new units of housing, increased connectivity to transit and widened sidewalks. We have a once-in-a-generation opportunity to improve our nation's busiest transit hub. This is an investment whose impact and benefits will be felt for decades to come. The new Penn Station will be a symbol that New Yorkers can be proud of and look to as we rebuild our region following one of the toughest periods in modern history. Now is the time to boldly invest in our infrastructure, in our economy, and in our future. Please move this plan forward - it will improve the lives of countless New Yorkers like mine. Sincerely,

--

Jeffrey Hsu

From: Liza Karp <>
Sent: Tuesday, July 5, 2022 7:34 AM

Subject: I'm Adding My Voice in Support of the Governor's Plan to Fix Penn Station

Hello, I am one among thousands of New Yorkers who fully support Governor Hochul's proposed plan to transform Penn Station. Penn Station was once one of the crown jewels of our city—not just the most important transit hub in the region but an architectural gem. Since the 60s it has fallen into the disrepair commuters have grown accustomed to—a dilapidated basement of a station almost universally reviled by the 600,000+ riders it serves every day. With the Governor's proposal, we have a unique opportunity to reimagine Penn Station, and restore its original promise as a grand gateway to New York. This plan is a rare opportunity to not only revitalize Penn Station, but also create thousands of jobs, prioritize smart transit, and improve the lives of hundreds of thousands who commute through Penn Station daily. A recent report issued by the Regional Plan Association highlights the need to continue investing in our infrastructure as transit ridership is expected to surpass pre-COVID levels by the end the decade. As more people return to the office, combined with increased demand from the Bronx and Westchester as a result of Penn Access, the lack of transit capacity at Penn Station will soon be untenable. Penn and the surrounding district does not meet the needs of nearby residents and commuters who deserve a world-class station here in New York City. Capacity has not increased despite daily ridership ballooning to 600,000 over the last few decades. The commuter experience is defined by delays and countless obstacles that take up valuable time as commuters get to work and return to their families. And, crucially, the Station is completely unfit to meet the needs of disabled New Yorkers with only offers 2 elevators that connect to street level. The addition of 18 more escalators and 11 new elevators would address critical accessibility needs at the station. Public transportation must be built for commuters of all abilities—and the Governor's plan helps us do just that at Penn Station. Outside Penn, homelessness and crime have become serious issues in the neighborhood. Meanwhile there are few spaces open to the public that befit a renowned regional transit hub.. The new plan for Penn will revitalize the surrounding district with transformative neighborhood improvements including 8 acres of new public space, nearly 2000 new units of housing, increased connectivity to transit and widened sidewalks. We have a once-in-a-generation opportunity to improve our nation's busiest transit hub. This is an investment whose impact and benefits will be felt for decades to come. The new Penn Station will be a symbol that New Yorkers can be proud of and look to as we rebuild our region following one of the toughest periods in modern history. Now is the time to boldly invest in our infrastructure, in our economy, and in our future. Please move this plan forward - it will improve the lives of countless New Yorkers like mine. Sincerely,

From: Lisa Keliuotis <>
Sent: Monday, July 11, 2022 1:50 AM
Subject: I'm Adding My Voice in Support of the Governor's Plan to Fix Penn Station

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Sincerely,

From: Jon Lee <>
Sent: Thursday, July 7, 2022 8:45 PM

Subject: I'm Adding My Voice in Support of the Governor's Plan for a New Penn Station

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Sincerely,

From: Jake Linder <>
Sent: Wednesday, July 6, 2022 11:17 AM

Subject: I'm Adding My Voice in Support of the Governor's Plan for a New Penn Station

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Sincerely,

-Jake

From: Gabriele-Filippo Lunardi <>
Sent: Thursday, June 30, 2022 6:41 AM

Subject: I'm Adding My Voice in Support of the Governor's Plan for a New Penn Station

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From: DON MAJESKI <>
Sent: Saturday, July 2, 2022 9:26 PM

Subject: I'm Adding My Voice in Support of the Governor's Plan for a New Penn Station

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Now is the time to boldly invest in our infrastructure, in our economy, and in our future. Please move this plan forward - it will improve the lives of countless New Yorkers like mine.

Sincerely,
Don Majeski
Spend more!!!!

Sent from my iPhone

From: REGINA MAROTTA <>
Sent: Saturday, July 2, 2022 9:31 PM

Subject: I'm Adding My Voice in Support of the Governor's Plan to Fix Penn Station

Hello, I am one among thousands of New Yorkers who fully support Governor Hochul's proposed plan to transform Penn Station.

Penn Station was once one of the crown jewels of our city—not just the most important transit hub in the region but an architectural gem. Since the 60s it has fallen into the disrepair commuters have grown accustomed to—a dilapidated basement of a station almost universally reviled by the 600,000+ riders it serves every day.

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Sincerely,

Regina Marotta LCSWR
Sent from my iPhone

From: Liam Roecklein <>
Sent: Sunday, July 3, 2022 12:00 PM

Subject: I'm Adding My Voice in Support of the Governor's Plan to Fix Penn Station

Hello, I am one among thousands of New Yorkers who fully support Governor Hochul's proposed plan to transform Penn Station.

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Sincerely,

From: Fred Schwark <>
Sent: Sunday, July 10, 2022 3:29 PM

Subject: I'm Adding My Voice in Support of the Governor's Plan to Fix Penn Station

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it will improve the lives of countless New Yorkers like mine.

Sincerely,
Fred

From: Paul Shay <>
Sent: Thursday, July 7, 2022 7:26 PM

Subject: I'm Adding My Voice in Support of the Governor's Plan to Fix Penn Station

Hello, I live in NYC at 30th between 8th and 9th. I

am one among thousands of New Yorkers who fully support Governor Hochul's proposed plan to transform Penn Station. Penn Station was once one of the crown jewels of our city—not just the most important transit hub in the region but an architectural gem. Since the 60s it has fallen into the disrepair commuters have grown accustomed to—a dilapidated basement of a station almost universally reviled by the 600,000+ riders it serves every day.

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Please move this plan forward - it will improve the lives of countless New Yorkers like mine.

Sincerely,
Paul

From: Kenneth Sommer <kasnyny@gmail.com>
Sent: Monday, July 4, 2022 6:49 PM

Subject: I'm Adding My Voice in Support of the Governor's Plan to Fix Penn Station

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Sincerely,

Kenneth A. Sommer, Esq.

From: Jesse Strauss <>
Sent: Sunday, July 10, 2022 2:59 PM
Subject: I'm Adding My Voice in Support of the Governor's Plan to Fix Penn Station

Hello, I am - Manhattan resident and life long New Yorker one among hundreds of thousands of New Yorkers who fully support Governor Hochul's proposed plan to transform Penn Station. Now is the time. Do not let a few vocal voices hold back New York from remaining a world class city and engine of opportunity for generations.

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Sincerely and respectfully submitted,

Jesse Strauss